

**REQUEST FOR QUALIFICATIONS**  
**FOR**  
**2008 Building Energy Efficiency Standards**



**RFQ #400-04-401**

**[www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts)**

**State of California  
California Energy Commission**

**January 2005**

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- A Work Authorization Format Sample

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- 1 Contractor Status Form
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- 3 Contractor Certification Clauses
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  - 6. Agreement Representatives

# REQUEST FOR QUALIFICATIONS

## Section 1 - Introduction

### Background Summary

The Warren-Alquist Act of 1976 mandated the Energy Commission to create and periodically update building energy efficiency standards for the state of California. In developing the 2005 Building Energy Efficiency Standards during 2001-2003, the Energy Commission was responding in part to Assembly Bill 970, an urgency statute passed in September 2000 which was prompted by an electricity crisis in California.

In 2002 and 2003, California's principal energy agencies (the California Power Authority, Public Utilities Commission, and Energy Commission) joined to coordinate efforts related to California's energy policy. In May 2003, the group released the *Energy Action Plan (EAP)*. The *EAP's* goal is to "ensure that adequate, reliable, and reasonably-priced electrical power and natural gas supplies, including prudent reserves, are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers." Toward this goal, the *EAP* established a "loading order" of energy resources and strategies to guide decisions made by the agencies jointly and singly. At the front of the loading order was optimizing strategies for increasing conservation and energy efficiency to minimize increases in electricity and natural gas demand. Second in the loading order were strategies for new electricity generation to be met first by renewable energy resources and distributed generation. California's building (and appliance) standards are the most cost-effective means of achieving energy efficiency in the state.

In November 2004, the Commission released the 2004 version of the legislatively-mandated *Integrated Energy Policy Report (IEPR)*. The *IEPR* pointed out that over the next several years; California faces significant challenges in ensuring adequate electricity supplies during critical peak demand periods.

On November 18, 2004 Governor Arnold Schwarzenegger joined with the Governors of Washington and Oregon to approve a series of recommendations pertaining to the impacts of global climate change. Recommendations include directives to incorporate aggressive energy efficiency measures into updates of state building codes, with a goal of achieving at least 15 percent cumulative savings by 2015 in each state.

Governor Schwarzenegger is taking a lead role not only on the West Coast Governors' Global Warming Initiative, but in the Western Governors' Association (WGA) as well. Prompted by the recommendations of Governor Schwarzenegger, WGA Policy Resolution #04-13, entitled *Clean and Diversified Energy Initiative for the West* (June 22, 2004), was passed that commits Western Governors to examine the feasibility of and actions that would be needed to "achieve a goal to develop 30,000 MW of clean energy in the West by 2015 from resources such as energy efficiency [and] solar ....and increase the efficiency of energy use by 20% by 2020."

On December 14, 2004 Governor Schwarzenegger issued Executive Order S-20-04, referred to as the *Green Building Initiative* which lays out a comprehensive set of actions for California to

## **Section I - Introduction**

take to improve the energy efficiency of nonresidential buildings. The Energy Commission is directed to undertake all actions within its authority to increase the efficiency requirements in the Building Energy Efficiency Standards for nonresidential buildings by 20% by 2015.

The 2008 Building Energy Efficiency Standards will be designed and specifically targeted to pursue these policy directives.

The Energy Commission has targeted December 2006 for adoption of these updated Standards, with an expected effective date of July 1, 2008. Between the 2006 adoption date and the 2008 effective date, the Energy Commission anticipates that the California utilities can focus Public Goods Charge-funded new construction programs on a transition process for early voluntary compliance with the updated Standards.

### **Purpose of this Request for Qualifications (RFQ)**

The purpose of this RFQ is to solicit for and contract with a consultant or team of consultants to assist the Commission in revising the California Building Energy Efficiency Standards for 2008.

The Energy Commission is seeking a consultant or team of consultants with knowledge and experience concerning:

- each Key Topic Area, each Scope of Work task, and development and implementation of the California Building Energy Efficiency Standards;
- the effectiveness and efficiency of proposed approaches to address each Key Topic Area and Scope of Work tasks;
- the ability to organize and manage a team of technical experts to effectively complete Scope of Work tasks and deliverables in a timely manner; and
- the effectiveness and efficiency of proposed approaches to address topic areas not anticipated by this RFQ (including recruitment and management of specific subcontractors with expertise in building science, technology specialties, or construction practice).

### **Available Funding**

There is a maximum total of \$1,000,000 available resulting from this RFQ. Of this amount, \$500,000 will be immediately available, and \$500,000 is expected to be available from the budget for fiscal year 2005/2006. One contract will be let up to the entire amount of \$1,000,000. This is an hourly rate plus cost reimbursement contract with a ceiling on the total contract amount. The Energy Commission reserves the right to increase or decrease the amount of the contract as needed to meet budget or program requirements.

### **How to Respond to This RFQ**

Responses to this solicitation will be in the form of a Statement of Qualifications (SOQ) according to the format described in this RFQ. The SOQ shall document the Bidder's qualifications to perform the tasks described in the Scope of Work found in this RFQ.

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### Whom to Contact

This RFQ is available through the Energy Commission's Web Site at [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts). Questions or clarifications about this RFQ should be directed to:

PEG A. PIGEON-BERGMANN, Contract Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, CA 95814  
Telephone: (916) 654-7093 FAX: (916) 654-4423

### Verbal Communication

Any verbal communication with an Energy Commission employee concerning this RFQ is not binding on the State and shall in no way alter a specification, term, or condition of the RFQ. All communication should be directed to the Energy Commission's Contract Officer.

### Key Activities and Dates

Key activities and tentative dates for this RFQ are presented below:

<u>Activities</u>	<u>Tentative Dates</u>
RFQ Release	January 28, 2005
Pre-Bid Conference	February 8, 2005
Written Question Submittal Deadline	February 8, 2005
Distribute Addenda	February 15, 2005
DVBE Advertising Deadline	February 15, 2005
Deadline to Submit SOQ	March 1, 2005
SOQ Discussions with Bidders	March 24, 2005
Notice of Selection	March 30, 2005
Confirmation of DVBE Commercially Useful Function	March 31 - April 13, 2005
Cost Negotiations	April 13 - April 27, 2005
Notice of Proposed Award	May 3, 2005
Energy Commission Business Meeting	June 22, 2005
Agreement Start Date	June 30, 2005

### How to Obtain Further Information

One Pre-Bid Conference will be held to answer questions. Please call (916) 654-4392 to confirm date, time, and location, or refer to the Energy Commission's Web Site at [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts). At the option of the Energy Commission, questions posed during the Pre-Bid Conference may be answered either orally or in writing. Prospective Bidders are encouraged to attend the meeting to be held at:

**10:00 a.m. to 12:00 Noon**  
**California Energy Commission**  
**1516 Ninth Street, Sacramento, CA 95814**

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### Bidder's Responsibilities for Submitting a Statement of Qualifications (SOQ)

Bidders must take the responsibility to:

- Carefully read this entire RFQ.
- Ask the appropriate questions in a timely manner.
- Submit all required responses in a complete manner by the required date and time.
- Make sure that all procedures and requirements of the RFQ are followed and appropriately addressed.
- Carefully reread the entire RFQ before submitting an SOQ.

### Reference Documents

Bidders responding to this RFQ may want to familiarize themselves with the following documents:

#### Reference Documents for 2008 Standards RFQ

*2003 Integrated Energy Policy Report*, California Energy Commission, Publication No. 100-03-019, December 2003 (available online at [www.energy.ca.gov/2003\\_energy\\_policy](http://www.energy.ca.gov/2003_energy_policy)).

*Integrated Energy Policy Report - 2004 Update*, California Energy Commission, Publication No. 100-04-006CTF, October 2004 (available online at [www.energy.ca.gov/2004\\_policy\\_update](http://www.energy.ca.gov/2004_policy_update).)

Letter from California Governor Arnold Schwarzenegger to Michael Peevey, President of the California Public Utilities, April 28, 2004.

*Public Interest Energy Strategies Report, 2003 Integrated Energy Policy Subsidiary Report*, California Energy Commission, Publication No. 100-03-012F, December 2003 (available online at [www.energy.ca.gov/reports/100-03-012F.pdf](http://www.energy.ca.gov/reports/100-03-012F.pdf).)

*State of California Energy Action Plan*, Consumer Power and Conservation Financing Authority, Energy Resources Conservation and Development Commission, and Public Utilities Commission, San Francisco, May 2003 (available online at [www.energy.ca.gov/energy\\_action\\_plan/2003-05-08\\_ACTION\\_PLAN.pdf](http://www.energy.ca.gov/energy_action_plan/2003-05-08_ACTION_PLAN.pdf).)

West Coast Governors' Global Warming Initiative, Staff Recommendations to the Governors, November, 2004 (available online at [www.ef.org/westcoastclimate/WCGGWl\\_Nov\\_04%20Report.pdf](http://www.ef.org/westcoastclimate/WCGGWl_Nov_04%20Report.pdf).)

Western Governors Association, letter dated April 12, 2004, signed by Gov. Bill Richardson of New Mexico and Gov. Arnold Schwarzenegger of California to the Western Governors, outlining goals for renewable energy and energy efficiency for the Western States (available online at [www.westgov.org/wga/initiatives/energy/summit/clean-energy.pdf](http://www.westgov.org/wga/initiatives/energy/summit/clean-energy.pdf).)

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Western Governors Association Policy Resolution 04-13, *Clean and Diversified Energy Initiative for the West*, Santa Fe, NM, June 22, 2004 (available online at [www.westgov.org/wga/policy/04/clean-energy.pdf](http://www.westgov.org/wga/policy/04/clean-energy.pdf).)

### 2001 and 2005 Standards Documents

*2001 Nonresidential Compliance Manual Supplement*, California Energy Commission, Publication No. P400-01-023 (available online at [www.energy.ca.gov/title24/nonresidential\\_manual/index.html](http://www.energy.ca.gov/title24/nonresidential_manual/index.html)).

*2001 Residential Compliance Manual, California*, California Energy Commission, Publication No. P400-01-022, (available online at [www.energy.ca.gov/title24/residential\\_manual/index.html](http://www.energy.ca.gov/title24/residential_manual/index.html).)

*2005 Nonresidential Alternative Calculation Method Approval Manual*, California Energy Commission, Publication No. P400-03-004F (available online at [www.energy.ca.gov/title24/2005standards/nonresidential\\_acm/index.html](http://www.energy.ca.gov/title24/2005standards/nonresidential_acm/index.html).)

*2005 Residential Alternative Calculation Method Approval Manual*, California Energy Commission, Publication No. P400-03-003F (available online at [www.energy.ca.gov/title24/2005standards/residential\\_acm/index.html](http://www.energy.ca.gov/title24/2005standards/residential_acm/index.html))  
*California Outdoor Lighting Standards (Revised March 2004)*, California Energy Commission, Publication No. 400-03-015 (available online at [www.energy.ca.gov/reports/2004-04-13\\_400-03-015REV.PDF](http://www.energy.ca.gov/reports/2004-04-13_400-03-015REV.PDF)).

*Impact Analysis, 2005 Update to the California Energy Efficiency Standards for Residential and Nonresidential Buildings*, California Energy Commission, Publication No. 400-03-014 (available online at [www.energy.ca.gov/title24/2005standards/archive/rulemaking/documents/2003-07-11\\_400-03-014.pdf](http://www.energy.ca.gov/title24/2005standards/archive/rulemaking/documents/2003-07-11_400-03-014.pdf).)

*Initial Study/Proposed Negative Declaration for the 2005 Building Energy Efficiency Standards for Residential and Nonresidential Buildings*, Staff Report, California Energy Commission, Publication No. 400-03-018 (available online at [www.energy.ca.gov/reports/2003-09-12\\_400-03-018.pdf](http://www.energy.ca.gov/reports/2003-09-12_400-03-018.pdf).)

*Life Cycle Cost Methodology*, Publication No. 400-02-009, March 11, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-02\\_workshop/2002-03-20\\_LIFE\\_CYCLE.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-02_workshop/2002-03-20_LIFE_CYCLE.pdf).)

*Part I: MEASURE ANALYSIS and LIFE-CYCLE COST*, Publication No. 400-02-011, April 11, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-23\\_workshop/2002-04-23\\_WORKSHOP\\_REPORT.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-23_workshop/2002-04-23_WORKSHOP_REPORT.pdf).)

*Part II: MEASURE ANALYSIS and LIFE-CYCLE COST*, Publication No. 400-02-012, May 16, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-05-30\\_workshop/2002-05-17\\_RES\\_FEN\\_HYDRONIC.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-05-30_workshop/2002-05-17_RES_FEN_HYDRONIC.pdf).)

*Part III: MEASURE ANALYSIS and LIFE-CYCLE COST*, Publication No. 400-02-013, July 3, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-07-18\\_workshop/2002-07-18\\_ELEY\\_REPORT.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-07-18_workshop/2002-07-18_ELEY_REPORT.pdf).)



## Section I - Introduction

*Part IV: MEASURE ANALYSIS and LIFE-CYCLE COST*, Publication No. 400-02-014, August 13, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-08-27\\_workshop/2002-08-14\\_4TH\\_GROUP\\_ELEY.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-08-27_workshop/2002-08-14_4TH_GROUP_ELEY.pdf).)

*Time Dependent Valuation (TDV) – Economics Methodology*, Code Change Proposal for the 2005 Title 24 Building Energy Efficiency Standards Update, PG&E, 2002 (available online at [www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-02\\_workshop/2002-03-20\\_TDV\\_ECON.pdf](http://www.energy.ca.gov/title24/2005standards/archive/documents/2002-04-02_workshop/2002-03-20_TDV_ECON.pdf).)

All above reference documents are on display and available for review in the Energy Commission's Library (Monday–Thursday from 9:00 a.m. to 12 p.m. and 1:00 to 4:00 p.m. and Friday, 9:00 a.m. to 12:00 p.m.) located at:

**California Energy Commission  
1516 Ninth Street, MS-10  
Sacramento, CA 95814  
(916) 654-4292**

## Section II - Administrative Information

### About This Section

This section provides Bidders details for submitting a successful SOQ, including sources of information, submitting the SOQ, confidential information, grounds for rejecting an SOQ, and other administrative details.

### RFQ Defined

The competitive method used for this procurement of services is an RFQ. An SOQ submitted in response will be scored and ranked based on the criteria in this RFQ. Every SOQ must establish in writing the Bidder's ability to perform the tasks listed in this RFQ. The Energy Commission will negotiate an Agreement with the selected Bidder for compensation which the Energy Commission determines to be fair and reasonable.

### Where and How to Deliver the Statement of Qualifications

A Bidder may deliver an SOQ by:

- U.S. Mail,
- in person, or
- Messenger service.

The SOQ must be **delivered** to the Energy Commission's Contracts Office at 1516 Ninth Street, M-S 18, Sacramento, CA 95814, by 5:00 P.M. on the deadline to submit SOQ date. Pursuant to PCC section 10344, any proposals received after 5:00 P.M. will not be accepted. E-mail and facsimile (FAX) transmissions **WILL NOT** be accepted in whole or in part under any circumstances.

### Number of Copies to Submit

Each Bidder must submit an original SOQ and six (6) copies. The Bidder must submit the original and copies in a sealed envelope labeled "2008 Building Energy Efficiency Standards RFQ # 400-04-401."

### Important Administrative Details

Refer to the Contractor Certification Clauses included in this RFQ.

### Bidder's Cost

The Bidder is responsible for the cost of developing an SOQ and this cost cannot be charged to the State.

### Confidential Information

No confidential information is allowed to be submitted in your SOQ. Any SOQ that contains confidential information will be rejected.

## Section II – Administrative Information

### Disabled Veteran Business Enterprises

This Agreement is subject to a participation goal of three percent (3%) certified California Disabled Veteran Business Enterprises (DVBE) as set forth in Public Contract Code Sections 10115, et seq.

### DVBE Requirement for “Commercially Useful Function”

A certified DVBE shall provide goods or services that contribute to the fulfillment of the Agreement requirements by performing a commercially useful function.

A DVBE is deemed to perform a commercially useful function if it does all of the following:

1. Is responsible for the execution of a distinct element of the work of the Agreement.
2. Carries out its obligation by actually performing, managing, or supervising the work involved.
3. Performs work that is normal for its business services and functions.
4. Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DVBE participation.

**NOTE: The Contracts Office will evaluate the highest ranked Bidder's DVBE documents for compliance with the Commercially Useful Function Requirements.**

### RFQ Cancellation

If it is in the State's best interests, the Energy Commission reserves the right to do any of the following:

- Cancel this RFQ,
- Amend this RFQ, or
- Reject any or all SOQs received in response to this RFQ

### RFQ Amendments

If the RFQ is amended, the Energy Commission will send an addendum to all parties who requested the RFQ and will also post it on the Energy Commission's Web Site at [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts) and the Department of General Services' Web Site at [www.dgs.ca.gov/cscr](http://www.dgs.ca.gov/cscr).

### Errors

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ, the Bidder shall immediately notify the Energy Commission of such error in writing and request modification or clarification of the document. Any resulting modifications or clarifications will be

## **Section II – Administrative Information**

posted on the Energy Commission's Web Site without divulging the source of the request for clarification. The Energy Commission shall not be responsible for failure to correct errors.

### **Modifying or Withdrawing an SOQ**

#### **Withdrawal/Modification**

A Bidder may, by letter to the Contact Person, withdraw or modify a submitted proposal before the deadline to submit an SOQ. An SOQ cannot be changed after that date and time.

#### **Immaterial Defect**

The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Energy Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

### **Grounds to Reject an SOQ**

#### **An SOQ shall be rejected if:**

- It is received after the deadline time and date.
- It is considered nonresponsive to the California Disabled Veteran Business Enterprise participation requirements.
- It is lacking properly executed Contractor Certification Clauses.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- It is intended to erroneously and fallaciously mislead the State in its evaluation of the SOQ and the attribute, condition, or capability is a requirement of this RFQ.
- There is a conflict of interest as contained in Public Contract Code Sections 10410, 10411, or any other conflict of interest law or eligibility conflict interest rules in this RFQ.
- It contains confidential information.

#### **An SOQ may be rejected if:**

- It is not prepared in the mandatory format described.
- It is unsigned.
- It does not literally comply or contains caveats that conflict with the RFQ and the variation or deviation is not material, or it is otherwise nonresponsive.

## **Section II – Administrative Information**

### **Selection Process Steps**

The Energy Commission will organize a committee whose members have expertise in evaluating consulting services. The Evaluation Committee will evaluate each SOQ as follows:

#### **Fulfillment of RFQ Mandatory Format**

The Contracts Office will review each SOQ to confirm compliance with the mandatory format outlined in this RFQ. Bidders who do not follow the mandatory format may be eliminated from the competition.

#### **Evaluation of Qualifications**

The Evaluation Committee will review and score all remaining SOQs based on the Evaluation Criteria in this RFQ. The preliminary final score for each SOQ reflects the average of the combined scores of all Evaluation Committee members.

#### **Discussions**

The Evaluation Committee shall conduct discussions during the Evaluation Process with no less than the top three Bidders regarding qualifications and methods for furnishing the required services. The Evaluation Committee may provide the Bidders with questions and/or issues to be addressed and a format for structured discussions. The Evaluation Committee may use patterned questions and/or questions specific to a proposal to conduct Bidder discussions. The Evaluation Committee may require the Bidders to address questions and/or issues in the form of a Presentation. Upon completion of the discussions the Evaluation Committee may make adjustments to the scores and re-rank the Bidders. From the Bidders with whom discussions are held, the Evaluation Committee shall select no less than three Bidders, in order of preference, based upon the established criteria, who are deemed to be the most highly qualified to provide the required services. Bidders should anticipate travel to the Energy Commission Headquarters for the discussions.

The Evaluation Committee may reject all Bidders and SOQs if none are considered in the best interest of the Energy Commission.

#### **DVBE Evaluation for Commercially Useful Function**

The Contracts Office will evaluate DVBE documents for compliance with the Commercially Useful Function Requirements.

#### **Notice of Selection**

A "Notice of Selection" will be sent to all Bidders.

#### **Negotiations**

Pursuant to Title 20, CCR, Section 2565 and Public Contract Code (PCC) 6106, within 14 days after posting the Notice of Selection, the Energy Commission will begin negotiations with the top ranked Bidder for an acceptable fee (hourly rates). The top ranked Bidder will be required to submit a list of rates after written notification of selection. If negotiations with the top ranked Bidder fails, the Energy Commission will enter into negotiations with the next highest Bidder, and so on.

#### **Notice of Proposed Award**

A "Notice of Proposed Award" will be released and posted on the Energy Commission's Web Site.

## **Section II – Administrative Information**

### **Disposition of Bidder's Documents**

On the submission date, each SOQ and related material submitted in response to this RFQ becomes the property of the State. After the Notice of Proposed Award is posted, each SOQ and related materials become public records. In addition, all evaluation and scoring sheets become public records after the Notice of Proposed Award is posted. The original SOQ may be returned to a Bidder upon written request.

### **Agreement Requirements**

See the sample of an Agreement included in this RFQ.

#### **No Agreement Until Signed and Approved**

No Agreement between the Energy Commission and the successful Bidder is in effect until the Agreement, signed by the Contractor, has been approved at an Energy Commission Business Meeting and, if over \$75,000, approved by the Department of General Services, Legal Services.

## **Section III - Statement of Qualifications Format and Required Documents**

### **About This Section**

This section provides Bidders with information about how to prepare an SOQ in response to this RFQ. Bidders must follow all SOQ format instructions, answer all questions, and supply all requested data.

### **Pricing/Rates Information**

Do not submit any price quotes or bids with your SOQ since this will be negotiated with the top rated Bidder.

### **Required Format**

The following topics constitute the **mandatory order of presentation for an SOQ**. Provide one original and six (6) copies. Two-sided copying is preferred:

#### **VOLUME 1, Administrative Response**

1. Cover Letter
2. Table of Contents
3. Required Documents and Statements
  - Contractor Status Form
  - Completed Disabled Veteran Business Enterprise Forms
  - Signed Contractor Certification Clauses

#### **VOLUME 2, Technical Response**

1. Approach to Tasks in Scope of Work
2. Contractor Qualifications
3. Cost Minimization
4. Project Team Organization Structure
5. Project Team Relevant Experience and Qualifications
6. Customer References
7. Examples of Prior Work

## **Section III – SOQ Format and Required Documents**

### **VOLUME 1, ADMINISTRATIVE RESPONSE FORMAT**

#### **Cover Letter**

Each Bidder shall submit a cover letter on company letterhead that includes a reference to: “2008 Building Energy Efficiency Standards, RFQ 400-04-401”.

#### **Table of Contents**

Each SOQ must include a Table of Contents organized in the mandatory order cited previously and with corresponding page numbers.

#### **Required Documents and Statements**

Every Bidder must complete and include the following forms with their SOQ:

1. Contractor Status Form
2. Disabled Veteran Business Enterprise forms (Bidders who qualify as government entities are exempt from this requirement).

Non-governmental entities must have either three percent DBVE participation *or* must demonstrate a good faith effort to obtain DVBE participation. It is important that you thoroughly read the instructions provided for DVBE requirements. To meet the DVBE program requirements, Bidders must complete and fully document at least one of the following compliance options:

Option A – Commitment to full DVBE Participation – For a Bidder who is a DVBE or who is able to meet the commitment to use identified DVBE(s) to fulfill the full DVBE participation goal.

Option B – Good Faith Effort – For a Bidder documenting its completed effort, made prior to the SOQ due date, to obtain DVBE participation that may result in partial or no DVBE participation.

3. Contractor Certification Clauses

### **VOLUME 2, TECHNICAL RESPONSE FORMAT**

#### **Approach to Tasks in Scope of Work**

Describe the Bidder’s approach to providing services listed in the Scope of Work, highlighting outstanding features, qualifications, and experience. Describe what the Bidder’s approach to contract management and administration of the Agreement resulting from this RFQ will be



## **Section III – SOQ Format and Required Documents**

### **Contractor's Qualifications**

#### **Analytical Tools**

Describe what type of computers and/or analytical tools will be used to accomplish the tasks listed in the Scope of Work.

#### **Cost Minimization**

Without revealing hourly rates or cost, describe the efforts that the Contractor will take to minimize costs to the Energy Commission in the successful performance of this contract. For example:

#### **In-State Travel Costs**

What policy will the Contractor adopt as related to team member time charges when the team member is traveling and/or not working actively on the contract?

#### **Out of State Travel Costs**

It is the Energy Commission's intent to reimburse contractors for airfare within California. If the Contractor and/or team members are located out of state, will the Contractor establish an office in California and/or initiate all travel and related time charges from this California office, and not the out of state office? The Energy Commission is interested in reimbursing the Contractor for active time spent working on this contract, not travel.

### **Project Team Organization Structure**

1. Describe the organizational structure of the Bidder, including providing an organizational chart of the entire contract team.
2. Advise the location of the Bidder's and Subcontractor's headquarters and satellite office(s) and proposed methods of minimizing costs to the State.
3. Describe professional awards.
4. Describe the organization, composition, and functions to be performed by staff members of the Bidder and any subcontractors and how the staff pertains to this contract.
5. Identify a primary contact person. This person should attend the discussion.
6. Describe any technical capabilities that would facilitate communicating with the Energy Commission (e.g., internet capability and electronic reports).

### **Project Team Relevant Experience and Qualifications**

1. Document the project team's qualifications as they apply to performing the tasks described in the Scope of Work. Describe the nature and scope of recently completed work as it relates to the Scope of Work.
2. Identify and list all Bidder staff and subcontractors (all team members) who will be committed to the tasks and describe their roles.
3. Describe job classification, relevant experience, education, academic degrees and professional licenses of these technical staff team members.
4. Provide a current resume for all team members listed and identify the percentage of time each team member will be available throughout the contract.
5. Identify the percentage of time each team member will be available throughout the contract.
6. Describe their familiarity with the administration, management, and technical expertise in performing pertinent tasks identified in the Scope of Work.

## **Section III – SOQ Format and Required Documents**

### **Customer References**

Each Bidder shall complete a Customer Reference Form. Three customer references are required for the Contractor and three customer references are required for each subcontractor.

### **Examples of Prior Work**

Each Bidder shall provide a minimum of one example of a work product for the services to be provided (it is not necessary to provide more than one copy of each work product example).

If more than one company will be providing technical support, each firm shall submit one example product that demonstrates experience in potential work assignments described in this RFQ.

## Section IV. - Scope of Work

### About This Section

In this section, the Energy Commission describes the tasks the Bidder (referred to as “Contractor” in the Scope of Work) will be asked to perform under the direction of the Energy Commission Contract Manager. This section also describes the work assignment process, deliverables, and due dates.

### Background

The Warren-Alquist Act of 1976 mandated the Energy Commission to create and periodically update building energy efficiency standards for the state of California (Title 24, Part 6 of the California Code of Regulations). In developing the 2005 Building Energy Efficiency Standards during 2001-2003, the Energy Commission was responding in part to Assembly Bill 970, an urgency statute passed in September 2000 which was prompted by an electricity crisis in California.

In 2002 and 2003, California's principal energy agencies (the California Power Authority, Public Utilities Commission, and Energy Commission) joined to coordinate efforts related to California's energy policy. In May 2003, the group released the *Energy Action Plan (EAP)*. The *EAP's* goal is to "ensure that adequate, reliable, and reasonably-priced electrical power and natural gas supplies, including prudent reserves, are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers." Toward this goal, the *EAP* established a “loading order” of energy resources and strategies to guide decisions made by the agencies jointly and singly. At the front of the loading order was optimizing strategies for increasing conservation and energy efficiency to minimize increases in electricity and natural gas demand. Second in the loading order were strategies for new electricity generation to be met first by renewable energy resources and distributed generation. California's building (and appliance) standards are the most cost-effective means of achieving energy efficiency in the state.

In November 2004, the Commission released the 2004 version of the legislatively-mandated *Integrated Energy Policy Report (IEPR)*. The *IEPR* pointed out that over the next several years, California faces significant challenges in ensuring adequate electricity supplies during critical peak demand periods.

On November 18, 2004, Governor Arnold Schwarzenegger joined with the Governors of Washington and Oregon to approve a series of recommendations pertaining to the impacts of global climate change in an effort called the West Coast Governors' Global Warming Initiative. Recommendations included directives to incorporate aggressive energy efficiency measures into updates of state building codes, with a goal of achieving at least 15 percent cumulative savings by 2015 in each state.

Governor Schwarzenegger is taking a lead role not only on the West Coast Governors' Global Warming Initiative, but in the Western Governors' Association (WGA) as well. Prompted by the recommendations of Governor Schwarzenegger, WGA Policy Resolution #04-13, entitled *Clean and Diversified Energy Initiative for the West* (June 22, 2004), was passed that commits Western Governors to examine actions that would “achieve a goal to develop 30,000 MW of

## Section IV – Scope of Work

clean energy in the West by 2015 from resources such as energy efficiency [and] solar ....and increase the efficiency of energy use by 20% by 2020.”

On December 14, 2004, Governor Schwarzenegger issued Executive Order S-20-04, referred to as the *Green Building Initiative*, which lays out a comprehensive set of actions for California to improve the energy efficiency of nonresidential buildings. The Energy Commission is directed to undertake all actions within its authority to increase the efficiency requirements in the Building Energy Efficiency Standards for nonresidential buildings by 20% by 2015.

The 2008 Building Energy Efficiency Standards will be designed and specifically targeted to pursue these policy directives.

The Energy Commission has targeted December 2006 for adoption of these updated Standards, with an expected effective date of July 1, 2008. Between the 2006 adoption date and the 2008 effective date, the Energy Commission anticipates that the California utilities can focus Public Goods Charge-funded new construction programs on a transition process for early voluntary compliance with the updated Standards.

### **Primary Tasks**

The major categories of work are divided into the following tasks:

Task #	Task
1	Life Cycle Cost Analysis and Measure Identification and Analysis Plan
2	Life-Cycle Cost Results and Energy Analysis Report – First Set of Proposed Measures
3	Life-Cycle and Energy Analysis Report – Second Set of Proposed Measures
4	Life-Cycle and Energy Analysis Report – Third Set of Proposed Measures
5	Draft Standards, Joint Appendices, Residential and Nonresidential ACM Manuals
6	Impact Analysis Report
7	Participate in Rulemaking Hearings
8	Residential and Nonresidential Compliance Manuals
9	Contingencies and Additional Topic Areas
10	Monthly Progress Reports

*Note: All workshops and hearings are sponsored, organized, and facilitated by the California Energy Commission.*

This is a “work authorization” Agreement and no work shall be undertaken unless authorized by the Contract Manager through a specific written document called a “work authorization”. Exhibit A of this RFQ is a sample of a work authorization.

The Contract Manager will prepare and issue the written work authorizations and may set a maximum price, budget, and schedule for the work to be performed. The Contract Manager will work, in consultation with the Contractor, to assign work to either the Contractor or a subcontractor.

## Section IV – Scope of Work

### **Task 1 - Life Cycle Cost Analysis and Measure Identification and Analysis Plan**

#### Life Cycle Cost Methodology Report

The Contractor shall identify (or develop) and implement a methodology for completing life-cycle cost analyses to determine the cost-effectiveness of measures for inclusion in the 2008 Standards. The methodology will build on that done for the 2005 Standards. The methodology will evaluate the cost-effectiveness of measures both incrementally and in combination as specified by the Contract Manager. The methodology will document all economic assumptions, periods of analysis, and energy (i.e., electricity, natural gas, and propane) forecasts that are to be used. The methodology also will identify any sensitivity analyses on these and other parameters (e.g., measure costs and useful lives).

The Contractor will document the proposed life-cycle cost analysis methodology in a draft Life Cycle Cost Analysis Methodology Report. Upon the Contract Manager's review and approval of the draft Life Cycle Cost Analysis Methodology Report, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft Life Cycle Cost Analysis Methodology Report at the workshop and will address issues raised at the workshop in a revised Life Cycle Cost Analysis Methodology Report. Additional workshop(s) to review the revised Life Cycle Cost Analysis Methodology Report will be held if the Contract Manager deems it necessary. The Contractor will address additional measures or issues identified in later workshops or comments if deemed necessary by the Contract Manager.

Once the Contract Manager has approved the Life Cycle Cost Analysis Methodology Report, the Contractor will carry out all of the steps in the approved methodology to complete the life-cycle cost analysis of all measures under consideration for the 2008 Standards.

#### Measure Identification and Analysis Plan

Contractor shall identify energy and peak load savings opportunities (measures) for both residential and nonresidential buildings in collaboration with the Contract Manager. The measures to be considered may include, but are not limited to, more energy efficient levels of the measures currently included in the Standards, measures that are options for compliance in the performance standards but are not required, new measures proposed by a stakeholder or the Contractor, and measures that may result from the research or other work on the Key Topic Areas (see the description of Key Topic Areas following these task descriptions).

The Contractor shall:

- fully describe each identified measure,
- identify and document performance criteria such as design criteria or compliance with testing standards necessary for the measure to be effective and reliable,
- identify procedures for verifying the proper installation of the measure,
- review any relevant technical research and literature and existing testing procedures and standards, and
- consult with Standards stakeholders and industry experts knowledgeable about the measure.

## Section IV – Scope of Work

For each identified measure, this task will include development and documentation of plans for additional information about the measure required for completion of subsequent tasks. For each identified measure, these plans will identify sources of information relating to

- costs,
- useful lifespan,
- extent of availability,
- potential for expanding availability,
- potential for environmental consequences either positive or negative associated with the use of the measure,
- energy consequences,
- steps that need to be completed by the Contractor to obtain and document that information,
- the non-energy implications of the measure that may enhance or detract from its acceptance, such as health and safety implications, impacts on perceived comfort and productivity, or potential to enhance property valuation, and
- issues that require further investigation related to performance criteria, environmental consequences, field verification procedures, or non-energy implications.

Contractor will document plans for each measure in a draft Measure Identification and Analysis Plan. This draft will be submitted to the Contract Manager for approval. Upon the Contract Manager's approval of the draft, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the revised Measure Identification and Analysis Plan at the workshop and address issues raised at the workshop in a revised Measure Identification and Analysis Plan. Additional workshop(s) to review the revised Measure Identification and Analysis Plan will be held if the Contract Manager deems it necessary. The Contractor will address additional measures or issues identified in later workshops or comments if deemed necessary by the Contract Manager.

Deliverables: Draft Life Cycle Cost Methodology Report  
Final Life Cycle Cost Methodology Report  
Draft Measure Identification and Analysis Plan  
Final Measure Identification and Analysis Plan

### **Task 2 - Life Cycle Cost Results and Energy Analysis Report - First Set of Proposed Measures**

The Contractor will prepare a Life-Cycle Cost Results and Energy Analysis Report - First Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the first group of proposed measures for the 2008 Standards. It is expected that most or all of the first group of measures will come from work completed through Codes and Standards Enhancement (CASE) initiatives (see Section N under Key Topic Areas below). The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential Alternative Calculation Methods (ACM) Manuals, and Joint Appendices for each measure.

Upon the Contract Manager's review and approval of the draft report on the first set of proposed measures, or sooner if the Contract Manager deems it appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The

## **Section IV – Scope of Work**

Contractor will present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-Cycle Cost Results and Energy Analysis Report – First Set of Proposed Measures

### **Task 3 - Life Cycle and Energy Analysis Report - Second Set of Proposed Measures**

The Contractor will prepare a Life-cycle Cost Results and Energy Analysis Report – Second Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the second group of proposed measures for the 2008 Standards. The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential ACMs, and Joint Appendices for each measure.

Upon the Contract Manager's review and acceptance of the draft report on the second set of proposed measures, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will be required to present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-cycle Cost Results and Energy Analysis Report – Second Set of Proposed Measures

### **Task 4 - Life Cycle and Energy Analysis Report - Third Set of Proposed Measures**

The Contractor will prepare a Life-Cycle Cost Results and Energy Analysis Report – Third Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the third group of proposed measures for the 2008 Standards. The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential ACM Manuals, and Joint Appendices for each measure.

Upon the Contract Manager's review and acceptance of the draft report on the third set of proposed measures, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues that become identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-Cycle Cost Results and Energy Analysis Report – Third Set of Proposed Measures

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### **Task 5 - Draft Standards, Joint Appendices, Residential and Nonresidential ACM Manuals**

At the direction of the Contract Manager, the Contractor will draft specific mark-ups to language (building on the first draft mark-ups proposed in Tasks 2, 3, and 4) for revisions to the Standards, Joint Appendices, Residential and Nonresidential ACM Manuals, consistent with the work in Tasks 1-4. The Contractor will prepare draft documents that contains and show all draft revisions. The Contract Manager will instruct the Contractor as to the format of these documents. Upon the Contract Manager's review and approval of the draft documents, or sooner if the Contract manager deems it appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft documents at the workshop. Contractor will prepare supplements to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards if the Contract Manager deems it necessary.

Deliverables: Four Draft Documents: 2008 Standards, Joint Appendices, and Residential and Nonresidential ACM Manuals

### **Task 6 - Impact Analysis Report**

The Contractor will provide a written draft Impact Analysis Report estimating the statewide energy and cost impacts of the revised 2008 Standards to the Contract Manager. . The Contract Manager will advise the Contractor on the methodology for estimating the statewide energy and cost impacts.

After the Contract Manager has approved the draft Impact Analysis Report, the Contractor will present it at a designated workshop and will address issues raised at the workshop in a revised report if the Contract Manager deems it necessary. At the Contract Manager's direction, Contractor will prepare supplements to the Impact Analysis Report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Draft Impact Analysis Report and supplement(s) if appropriate

### **Task 7 - Participate in Rulemaking Proceeding**

The Contractor will participate in rulemaking hearings to support the draft Standards and related documents developed in Tasks 5 and 6. Contractor participation shall include but may not be limited to presentation of the life cycle reports and other analyses that are the basis of the draft Standards. As directed by the Contract Manager, Contractor will prepare revised or additional documents to address comments and concerns that various stakeholders may file. .

Deliverables: Participation in Rulemaking Hearings  
Other deliverables as directed by the Contract Manager

### **Task 8 - Residential and Nonresidential Compliance Manuals**

The Contractor shall identify any necessary revisions to the Residential and Nonresidential Compliance Manuals and prepare draft Manuals that contain those revisions. With assistance from the Contract Manager, the Contractor will work with the subcontractors on its team for this



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Agreement, the utilities' CASE initiative consultants, and other entities who worked on updating the Standards and ACM Manuals to also help update the Compliance Manuals.

When the Contract Manager has approved the draft Residential and Nonresidential Compliance Manuals, or sooner if the Contract Manager deems it appropriate, the Contract Manager and the Contractor shall agree to a strategy for accepting public comments on the Compliance Manuals. This may include one or more public workshop(s) as well as public comments received through mail, emails, and phone calls. The Contractor shall work with the Contract Manager to address these public comments in a revised version of the draft Residential and Nonresidential Compliance Manuals.

Deliverables: Draft of Residential Compliance Manual  
Draft of Nonresidential Compliance Manual

### **Task 9 - Contingencies and Additional Topic Areas**

The Contractor shall assist with additional topic areas to cover unexpected research and analytic needs.

Deliverables: Will be defined as needed through Work Authorizations

### **Task 10 - Monthly Progress Reports**

The Contractor shall prepare and submit a monthly progress report in a format to be identified by the Contract Manager.

Deliverables: Monthly Progress Reports

Tentative Deliverables List and Schedule

Task #	DELIVERABLES	TENTATIVE DUE DATES
1	Life Cycle Cost Methodology Report and Measure Identification and Analysis Plan	August 24, 2005
2	Life-cycle and energy analysis report on first set of proposed measures (CASE and others)	August 24, 2005
3	Life-cycle and energy analysis report - second set of proposed measures	October 13, 2005
4	Life-cycle and energy analysis report - third set of proposed measures	December 16, 2005
5	First Draft Standards, Joint Appendices, Residential ACM and Nonresidential ACM Manuals	March 8, 2006
6	First Draft Impact Analysis Report	May 24, 2006
7	Participation in Rulemaking Hearings	August 1 to December 13, 2006
8	Residential and Nonresidential Compliance Manuals	September 1, 2007
9	Contingencies and Additional Topic Areas	As directed by Contract Manager
10	Monthly Progress Reports	Monthly throughout the contract

## Section IV – Scope of Work

**Work Guarantee.** The Commission does not guarantee any minimum or maximum amount of work under the Agreement.

**Contracts with Subcontractors.** When new subcontractors are hired or added, the Contractor shall submit proposed subcontractor contracts to the Commission for review and approval. At the same time, the Contractor shall provide the Commission with updated Disabled Veteran Owned Business Enterprise (DVBE) forms. The Contractor is responsible for the quality of all subcontractor work.

**Program meetings and briefings.** At the request of the Contract Manager, the Contractor shall be available for meetings or provide written and/or verbal program briefings to Energy Commission staff or others.

## Section IV – Scope of Work

### **Key Topic Areas for the 2008 Standards**

The Energy Commission is seeking to contract with a consultant or team of consultants to assist in revising the 2005 California Building Efficiency Standards for 2008. It will be the responsibility of the Contractor to become thoroughly familiar with each of the following key topic areas, the status of ongoing work in each topic area outside this contract, and additional work necessary to further develop and evaluate options in each topic area for possible inclusion in the 2008 Standards. Energy Commission staff will help identify outside research on these topic areas.

Through the course of the contract, some topic areas will continue to be researched in other contracts or in work sponsored by other stakeholders. It will be the responsibility of the Contractor, working with the Contract Manager, to coordinate with other researchers or stakeholders to stay current on the work in each topic area and to build on that work in carrying out the tasks in this contract. Some topic areas may become de-emphasized as the contract progresses. The Contract Manager will direct the Contractor regarding the relative priority of topic areas and the necessity for continued work in each topic area during the course of the contract.

Additional topic areas may be identified by Commission staff or proposed by the public through workshops, hearings, or other comment avenues. The Contract Manager will direct the Contractor on how to proceed on these additional topic areas.

For all topic areas being addressed for the 2008 Standards, the Contractor must complete the basic tasks described in the Scope of Work. To complete these tasks, the Contractor will determine to what extent other work discussed in the Key Topic Areas provides sufficient information that can be used directly to complete the task, and to what extent additional research and analysis by the Contractor will be necessary to complete the task. The Contract Manager will approve additional research and analysis to be performed by the Contractor that is necessary to complete each task for each topic area.

The Contractor will have on its team individuals who are knowledgeable about the Commission's Key Topic Areas for the 2008 Standards. These topic areas include but are not limited to the following:

#### **A. Demand Response**

The Energy Commission and the California Public Utilities Commission are conducting a joint proceeding to develop policies and practices for advanced metering, demand response, and dynamic pricing ([www.energy.ca.gov/demandresponse](http://www.energy.ca.gov/demandresponse)). The Schwarzenegger Administration has recognized demand response as a critical means to avoid rolling blackouts in the electricity system and is actively interested in approaches that can be taken in the building energy efficiency standards to require equipment that will facilitate demand response. Southern California Edison is pursuing a Codes and Standards Enhancement (CASE – see Section N below) Initiative that would investigate Standards requirements for demand responsive thermostats. Such thermostats would communicate with advanced electricity meters and be remotely addressable by the utility to communicate periods when the electricity system is low on resources and in emergency alert stages and critical peak pricing (CPPP) periods when the cost of electricity is very high. Such thermostats would be programmable by the building occupant to automatically set up the thermostat setpoint to call for less cooling during such events. The Administration also is interested in the potential for the Standards to require advanced meters

## Section IV – Scope of Work

that would be addressable by the utility during such events and would communicate with demand responsive thermostats and possibly with other demand responsive controllers to reduce the loads of specific equipment during such events. The Edison project also may investigate the potential for demand responsive controls for other end use equipment, such as swimming pool pumps based on pilot projects conducted as part of the joint CEC/CPUC demand response proceeding. In addition, the Energy Commission's Public Interest Energy Research (PIER) program has conducted research on addressable electronic lighting ballasts that could be dimmed automatically during such events. Similar automatic demand responsive control also is feasible for components of HVAC systems. The Contractor will use all available information to investigate inclusion of these demand responsive approaches in the Standards, including development of detailed minimum specifications for communication and control capabilities and acceptance requirements and procedures for acceptance requirement verification.

### **B. Tier II Standards Option - Benchmark for the Combination of High Energy Efficiency and Photovoltaics**

The Schwarzenegger Administration has a high commitment to vigorous expansion of the use of photovoltaics (PVs) to power California buildings. The Administration has been working with stakeholders on its "Million Solar Roofs Initiative," which will provide substantial public-funded incentives for PVs with a goal of making California one of the world leaders in the use of PVs and in the process driving down the cost of PVs here so that at the end of a ten year period they will be fully sustainable in the market without further public incentives. In developing this initiative, the Administration recognizes that PVs will be most cost effective when installed in combination with effective energy efficiency measures that substantially exceed current requirements in the Standards. When the Administration publicly announces its Initiative in the near future, it is expected that a higher level of incentives will be earmarked for homes that have the combination of high energy efficiency and photovoltaics. This is consistent with the concept of Zero Energy New Homes (ZENH) that has been initiated by the U.S. Department of Energy (DOE) throughout the U.S. Recently, the Commission has launched a major research and demonstration program for ZENHs in California.

The Commission intends to develop a Tier II compliance option in the 2008 Standards that will create a benchmark for homes with the combination of effective high energy efficiency measures and PVs. The effectiveness of all of the installed measures will be assured by third-party field verification and diagnostic testing. This Tier II compliance option will serve as a criterion for higher incentives through the Million Solar Roofs Initiative and for incentives that utilities may provide to further promote combined high efficiency/PV homes in California. The Commission also will consider regulatory incentives for homes that choose to comply with Tier II, such as potentially waiving building department energy plan check and site inspection for these homes.

The Contractor will provide technical analysis for the development of the Tier II compliance option. The Commission intends for the Tier II level to be specified in terms of its performance standards and for compliance software to automatically determine the "Tier II energy budget" based on the high energy efficiency measures that the Commission chooses (the Commission also will consider including solar domestic water heating in the set of measures). The Commission also intends to incorporate in compliance software determination of the expected performance of the PV system taking into account factors that impact PV output, including rated efficiency at standard test conditions, ambient temperature by climate region, dirt and dust, module mismatch and system wiring losses, DC to AC conversion losses, sun angle and

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module orientation and tilt, ventilation between the module and the roof, shading of the roof resulting from the above roof installation of the module, and expected shading of the module from neighboring trees. The contractor will evaluate the cost effectiveness of alternative energy efficiency measures compared to the cost of electricity generated by PVs.

### C. Reference Computer Program

California's Standards are fundamentally performance standards requiring the use of building computer simulation programs for evaluating the cost effectiveness of Standards requirements and for determining compliance. The Commission uses a specific computer program, DOE2.1E, for Nonresidential Standards development and as the "reference" program against which other programs proposed to be used for compliance are compared. The Alternative Calculation Methods (ACM) Approval Manual specifies detailed modeling approaches used in the reference program and rules for capabilities that will be necessary for other programs to have to be approved for compliance. Currently, approved nonresidential compliance programs use DOE2.1E as their engine. DOE2.1E was developed and maintained by Lawrence Berkeley National Laboratory (LBNL) through public funds. However, over the past several years LBNL has not made substantial improvements to DOE2.1E to incorporate new technologies and or make improvements to the software. Instead, DOE and LBNL have been focusing their efforts on developing a new program, EnergyPlus, that is designed to be a fundamentally more accurate program with substantially greater ability to model new technologies. EnergyPlus was originally called "Best of" because it was designed to combine the best features of both DOE2 and BLAST into a superior program. The Commission has been considering whether to change the reference program for the Standards to EnergyPlus and discontinue the use of DOE2.1E.

There are a number of considerations to be made regarding this change. The Warren-Alquist Act requires the Commission to provide a public domain compliance software program for the Standards. The Commission has met this requirement by providing software that uses DOE2.1E as its engine and meets all ACM Manual rules related to measure modeling and input and output formatting. EnergyPlus is an engine alone without the interfaces necessary to meet the ACM requirements for compliance software. For the Commission to provide an EnergyPlus-based compliance program, the substantial work of developing the necessary interfaces would have to be done. Because EnergyPlus has no interfaces to facilitate its use, modeling of features for Standards development is more difficult. EnergyPlus also was not designed to comply with the ACM rules for how to model buildings and features. It does not incorporate all measures required by the ACM rules and differs in how it models some features. Also, it is anticipated that EnergyPlus will result in somewhat different energy estimates for particular buildings and measures. At this point in time it is not known how significant these differences are.

Two Public Goods Charge-funded projects are analyzing EnergyPlus and will provide useful information for the Commission to decide whether to switch to EnergyPlus. First, PG&E is conducting a project to evaluate in detail to what extent EnergyPlus conforms to current ACM rules. Differences are being identified, and the project will recommend whether EnergyPlus should be modified to match the ACM rules or perhaps that some ACM rules should be considered for updating to enable EnergyPlus modeling improvements relative to DOE2.1E to be acceptable for the Commission's reference program. Second, Southern California Edison is conducting a project to provide a detailed comparison of EnergyPlus with other prominently used programs, including EnergyPro (the currently approved nonresidential compliance program based on DOE2.1E) and DOE2.2, a privately developed upgrade of the DOE2 engine.

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The Commission intends to consider switching to EnergyPlus as the Standards reference program in conjunction with the 2008 Standards. In so doing the Commission will carefully consider the results of both of the above projects. Also, the Commission expects the Contractor to use EnergyPlus to the extent possible for evaluating nonresidential measures for the 2008 Standards. If the Commission chooses to switch to EnergyPlus, the Nonresidential ACM manual will have to be updated to apply to EnergyPlus. Descriptions of modeling will have to be presented in terms of EnergyPlus inputs, outputs, and modeling approaches. Modeling limitations in the ACM will need to be reconfigured to be consistent with EnergyPlus modeling approaches. LBNL and DOE in conjunction with PIER have committed to provide ongoing assistance and support to enable the potential use of EnergyPlus for Standards development, to help develop the necessary interfaces to insure that the Commission can provide nonresidential compliance software based on EnergyPlus, and to facilitate the introduction of alternative compliance software by other providers that use EnergyPlus as the engine. The Contractor will provide technical assistance to enable switching of the reference program to EnergyPlus if the Commission decides to make that switch in conjunction with the 2008 Standards.

### **D. Modeling of Residential Roof and Attic Measures**

The energy using characteristics of attics and roofs have important energy and peak demand impacts on homes in California climates. Homes with low reflectance roofs and limited attic ventilation have attics that reach temperatures significantly higher than outdoor temperatures on hot days. These very high attic temperatures increase cooling loads and peak electrical demand by driving heat through the ceiling and reduce the efficiency of the air conditioning equipment ducts that are located in the hot attics. There are significant opportunities for improving attic conditions and reducing energy consumption and peak demand, including cool roofs, radiant barriers, improved attic ventilation, causing the attic to be in conditioned or semi-conditioned space, and increased thermal mass of roofing materials or ventilation of the roof surface. However, current residential modeling tools are not capable of accurately differentiating the energy consequences of these various roof and attic measures. PIER is sponsoring research to improve the attic/roof model to better evaluate the relative benefits and potential interactive impacts of these measures. For the 2008 Standards, the results of this PIER project must be incorporated into the ACM manuals. The Contractor will provide technical support to accomplish this.

### **E. Ventilation for Indoor Air Quality**

ASHRAE Standard 62, Ventilation for Indoor Air Quality, has long been the accepted standard for designing HVAC systems to provide adequate ventilation to maintain indoor air quality. The Standards have relied on ASHRAE Standard 62 to define minimum ventilation rates, acceptable ventilation strategies, and energy efficient ventilation approaches. ASHRAE adopted a new version of Standard 62.1 in 2002 for nonresidential buildings; this new version has been written in code language. Also, the 2003 UMC has adopted ASHRAE 62.1 by reference. The Contractor will identify what aspects of ASHRAE 62.1 differ from the Standards, identify desirable changes to the Standards to narrow those differences, evaluate the energy savings implications of making those changes, and develop approaches to mitigate situations where changing the Standards to be more like ASHRAE 62.1 would lead to increases in energy use and peak demand.

The 2005 Standards mandate demand control ventilation (DCV) when the air handler serves a space with a design occupant density (or with a maximum occupant load factor for egress

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purposes in the CBC) greater than or equal to 25 people per 1,000 ft<sup>2</sup> (40 ft<sup>2</sup> per person). The Contractor should consider expanding this requirement for occupancies with lesser densities.

ASHRAE also recently adopted Standard 62.2 for residential buildings. PIER is sponsoring research to assess to what extent the Standard 62.2 requirements would be appropriate for California. Also, the California Air Resources Board (ARB) is conducting research to evaluate the common practice of opening windows to maintain adequate indoor air quality and the emerging use of whole-house mechanical ventilation. As part of the PIER work, an evaluation will be made as to whether or not the Standards should be changed to be based on mechanical ventilation and what changes would need to be made to the Standards and ACM manuals. The Contractor will provide technical support to integrate the results of the PIER and ARB research into the Standards.

### **F. Nonresidential Ducts**

The 2001 Standards included duct sealing in residential units in prescriptive package D. The 2005 Standards extended nonresidential prescriptive duct sealing requirements to single zone units serving areas 5,000 square feet or less when ducts are installed outside of conditioned space. For the 2008 Standards, the Commission will consider extending the duct sealing requirements in nonresidential buildings to multizone (MZ) and variable air volume (VAV) systems in larger buildings. PIER has sponsored extensive research related to sealing of these duct systems and improvements to the modeling of these types of duct systems. The contractor will provide technical support to develop ACM algorithmic changes, duct sealing and diagnostic testing protocols for installers and Home Energy Rating System (HERS) raters, and cost effectiveness and other justification necessary to support requiring duct sealing for these systems in the Standards.

Another potential nonresidential duct efficiency measure for the 2008 Standards is “cool ducts.” Some metal ducts installed on the exterior of nonresidential buildings are exposed to direct sun, which can substantially heat the cool air inside the ducts resulting in loss of cooling capacity. Similar to certain roof materials, the outside of these duct systems can be treated with “cool” coatings that have high reflectivity and emissivity, resulting in substantial cooling savings. PIER recently has completed research evaluating the cost effectiveness of cool ducts. The Contractor will provide justification and documentation to enable the requirement of cool ducts in the Standards.

PIER has been conducting research for some time on underfloor air distribution and thermal displacement ventilation systems, and the research indicates that these techniques may result in significant energy savings and improve ventilation effectiveness. The Contractor will develop approaches to either provide compliance credit or require these systems in appropriate situations, including documentation and justification of Standards and ACM manual revisions.

### **G. Federal Requirements for State Building Energy Codes**

The Federal Energy Policy Act of 1992 (EPAAct) requires States to use national consensus standards as benchmarks to assess the adequacy of state building energy codes. Whenever the International Code Council (ICC) updates these standards [known as the Model Energy Code (MEC) or International Energy Conservation Code (IECC)], DOE must determine if the new version is more energy efficient than the previous version. States must then review their residential building energy codes to determine if they meet or exceed the efficiency of the national consensus standards. The Commission intends in the 2008 Standards to consider

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changes to keep California's Residential Building Energy Efficiency Standards more energy efficient than the 2003 IECC and relevant supplements. The Contractor will identify requirements within the IECC that are more energy efficient than counterpart requirements in the Standards.

Similarly, when ASHRAE updates its Standard 90.1, DOE is required to determine whether it is more energy efficient than the previous version. If DOE determines that this is the case, state building energy codes for nonresidential and high-rise residential buildings must be changed to be at least as energy efficient as the new version of ASHRAE 90.1. ASHRAE is now maintaining ASHRAE 90.1 as a "continuous maintenance" standard. The Commission intends in the 2008 Standards to consider changes to keep California's Nonresidential and High-Rise Residential Building Energy Efficiency Standards more energy efficient than ASHRAE 90.1. The Contractor will identify requirements within ASHRAE 90.1 that are more energy efficient than counterpart requirements in the Standards.

Though Federal law requires that state energy codes be at least as stringent as ASHRAE 90.1, the Warren-Alquist did not include Type I occupancies, e.g., hospitals, within the scope of buildings that are required to comply with the Standards. The Office of Statewide Health Planning and Development (OSHPD) is the agency in California that has authority for adopting building standards for hospitals. For the 2008 Standards, the Commission intends to provide technical assistance to OSHPD to identify the portions of the Standards that would be appropriate for OSHPD to adopt as energy efficiency standards for hospitals and to develop modifications to those portions as needed to address the design and operational requirements of hospitals. Through this process the Commission intends to demonstrate that the requirements for state energy codes in federal law are met for California hospitals.

### H. Duct Tape and Fittings

The 2001 Standards established requirements that prohibited the use of cloth-back rubber adhesive duct tape unless it is used in combination with mastic. Duct tape manufacturers petitioned the Commission for reconsideration of this prohibition in 2002, and following a rulemaking proceeding to consider the manufacturers' petition, the Commission concluded that no change should be made to the Standards ([www.energy.ca.gov/title24/ducttape/notices/2002-03-26\\_COM\\_CONCLUSIONS.PDF](http://www.energy.ca.gov/title24/ducttape/notices/2002-03-26_COM_CONCLUSIONS.PDF)). At the time the prohibition was adopted the Commission recognized that it would be preferable to state a durability performance standard for duct sealing products rather than prescriptively prohibit the use of a particular product type. However, no satisfactory consensus-adopted test procedure for duct sealant durability existed. Lawrence Berkeley National Laboratory (LBNL) has done work funded originally by DOE and more recently by PIER to seek approval by the American Society for Testing and Materials (ASTM) for the duct sealant durability testing protocol (ASTM E2342-03) that underlies the prohibition of cloth-back rubber adhesive duct tape in the Standards. The test procedure specifies how the testing is to be carried out but it does not specify a time-to-failure requirement. LBNL recently completed a report of its PIER-funded work on duct sealants that makes a recommendation for a time-to-failure specification. The Contractor will develop and justify Standards revisions to call for ASTM E2342-03 testing of duct sealant products including a time-to-failure specification.

Recently, some manufacturers and installers of residential ducts have developed innovative duct joints that are self-sealing and do not require tapes, mastic, or clamps. Portions of these ducts may be assembled at the factory and other parts may be assembled at the site. The installation of these duct fittings may be substantially less labor intensive than conventional duct closure ducts, resulting in first cost savings. For the 2008 Standards, the Commission intends to



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develop installation protocols for these types of ducts to ensure proper installation, and to allow their use as part of the duct sealing compliance option. The contractor will provide technical support for evaluating the appropriateness of this change.

### **I. Feedback on and Refinement of 2005 Standards**

As the 2005 Standards are implemented, the Commission expects to receive feedback on how to refine them to be more effective. The contractor will provide technical support to evaluate potential refinements and develop needed changes to the Standards and ACM manuals.

### **J. Time Dependent Valuation**

Prior to the adoption of the 2005 Standards, energy efficiency measures considered for inclusion in the Standards were expressed in terms of source energy. The valuation for alternative measures for achieving compliance with the Standards depended on how much source energy was determined to be reduced (or increased) by installing the measures in buildings. However, the costs for providing electricity, natural gas, and propane vary hourly and seasonally, and measures that reduce electricity, gas, or propane use during their peak periods have greater value to the energy system than at off-peak times. Therefore, the Commission adopted a time dependent valuation (TDV) approach for evaluating energy efficiency measures beginning with the 2005 Standards.

TDV changes the basis for valuing alternative energy measures within the Standards performance approach. Under TDV, the performance standards are a function of the present value dollar cost of energy for each hour and season over the life of the building. The value for alternative measures for achieving compliance with the Standards depends on how much installation of the measure reduced (or increased) the building's TDV-dependent energy consumption over the measure's useful life.

Currently, the California Public Utilities Commission (CPUC) is conducting a proceeding to develop rules for Public Goods Charge-funded energy efficiency programs for program years 2006 to 2008. One area under consideration is whether time-dependent "avoided costs" should be used for determining the cost effectiveness of Public Goods Charge programs. The CPUC has re-evaluated what the "avoided costs" for each hour of the year should be. For the 2008 Standards, the Contractor will review the CPUC effort to determine if the TDV valuation in the 2005 Standards should be changed to be based upon the CPUC's new avoided costs.

### **K. Performance Verification/Acceptance Requirements**

Research conducted by Architectural Energy Corporation (AEC), Lawrence Berkeley National Laboratory (LBNL), PG&E and other researchers throughout the country has demonstrated that major energy consuming systems in nonresidential buildings are commonly poorly "commissioned" at the time of building construction, and therefore fail to perform as intended by the building designers. Prior to the adoption of the 2005 Standards, the Standards addressed only limited aspects of how a building is to be tested and commissioned to assure it performs as designed (primarily related to HVAC system balancing and ventilation design). Research showed a need to place substantially more attention on verification and commissioning of HVAC equipment (including package rooftop units, ductwork, economizers, and controls) and of lighting system controls as well.

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In the 2005 Standards, the Commission adopted a set of mandatory “acceptance requirements” for testing of HVAC and lighting systems to make sure they are installed properly to meet the Standards. The building permit applicant must provide a signed Certificate of Acceptance to the enforcement agency that shows that specified tests were performed and that the systems performed as designed in compliance with the Standards. The enforcement agency is not allowed to grant an occupancy permit until it receives the Certificate of Acceptance. The testing can be done and the certificate of acceptance can be signed by a member of the builder’s team, including for example the design engineer, the installing contractor or a specialty contractor (e.g., a HVAC test and balance contractor) that the builder hires to do the testing. The items to be tested include VAV systems, constant volume systems, packaged HVAC systems, air distribution systems, hydronic system controls, air economizer controls, demand control ventilation (DCV) systems, variable frequency drive systems, and lighting control systems. These requirements are in Standards Sections 10-103, 121, and 125, and in Appendix NJ of the Nonresidential ACM Manual. Chapter 8 of the 2005 Compliance Manual contains detailed instructions for complying with the acceptance requirements.

After the 2005 Standards were adopted, certain improvements to the acceptance requirements were proposed for areas including but not limited to calibration of thermostats and flow measurements in hydronic systems. These and other possible improvements will be addressed by the contractor in the 2008 Standards.

Failure of HVAC and lighting systems to be installed and operated as designed also can be attacked by automatic means that function throughout the systems’ operational life. These automatic approaches include on-board detection of faults (when equipment begins to fail to operate within design parameters) and diagnostic controls to determine the reason for the faults and potentially even to automatically alter the equipment operation to correct the faults. Fault detection and diagnostic controls that are installed at the time of installation of the systems continue to monitor the operation of the mechanical or lighting equipment throughout the life of the equipment. These monitoring devices alert the owners/operators to any faults within the systems, and enable and facilitate corrective action. A recent PIER project has investigated issues related to automated fault detection and diagnostic software for air handling units (AHU) and VAV boxes.

Another automatic approach is to install controls that continually monitor the systems operation, and provide output that can be trended and compared to expected operation patterns to enable the operator to identify and correct operational problems that come up that cause increased energy use but may otherwise not easily be detected. This approach often is implemented as automatic data that is reported to an energy management system for analysis and reporting. The installation of these types of automatic approaches at the time of installation of systems can be a very powerful energy savings strategy that persists over the operational life of the system. PIER is evaluating automatic trend data collection and analysis systems that provide operators with real-time assistance to adjust system operation.

These automatic approaches can serve a similar function as acceptance requirement testing resulting in systems being installed properly to achieve design and Standards compliance intent. The Commission intends in the 2008 Standards to evaluate the appropriateness of relying on automatic approaches as alternatives to the acceptance requirements. This approach would require the establishment of minimum capabilities for such automatic approaches and the development of acceptance requirements for the automatic fault detection and diagnostic testing controls or the automatic trend data collection and analysis systems. The Contractor will provide technical support for developing and justifying these alternatives. The Contractor must

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be familiar with the research and relevant PIER projects and integrate the results into the 2008 Standards as appropriate.

### **L. Residential Construction Quality**

Since 1998 the Commission has placed priority on Standards requirements and compliance options to achieve quality installation of energy efficiency measures in residences. The Commission intends to continue that effort for the 2008 Standards. The Contractor will analyze the need for updating the protocols and calculation methods for the following residential features:

- Duct Sealing
- Supply Duct Location, Surface Area, and R-factor
- Improved Refrigerant Charge
- Installation of Thermostatic Expansion Valve (TXV) (some questions have been raised about the effectiveness of TXVs)
- Maximum Cooling Capacity
- Building Envelope Sealing
- High Quality Insulation Installation

The California Mechanical Code (CMC) requires residential duct systems to follow the Air Conditioners Contractors of America (ACCA) Manual D for duct design. However, the CMC is silent on the need for third party field verification to insure that proper design procedures are actually followed and result in proper supply duct airflow. The Contractor will analyze the potential for making adequate airflow through ducts a prescriptive requirement.

The federally required procedures for air conditioner efficiency (the Seasonal Energy Efficiency Ratio, SEER) allow manufacturers to use an assumed (default) air handler fan watt draw instead of measuring the actual fan watts of the equipment. Unfortunately, field research has shown that the actual fan energy in typical equipment is substantially greater than the default value that manufacturers are allowed to claim. The 2005 Standards created a compliance credit to encourage approaches to reduce actual fan energy; the credit can be taken when confirmed through third party diagnostic testing in the field. The same air handler fan is commonly used for distributing furnace heating through the duct system. On the heating side the fan energy is completely left out of the federal furnace efficiency ratings. PIER is currently evaluating air handler fan energy use during heating, and investigating the development of diagnostic testing protocols and calculation methods to include heating fan energy use in Standards compliance. The Contractor will provide technical support to the documentation and justification of Standards and ACM changes.

In the 2005 Standards the Commission revised the framing factors, used for determining wall assembly U-factors. Those framing factors are based on research findings for average California framing installations. Substantially lower framing factors are potentially possible through more careful attention to limiting the amount of framing, particularly at corners and window framing. The Commission intends to assess the appropriateness of compliance credit for field verified low framing percentage techniques. In the 2005 Standards the Commission also discontinued the practice of unique determination of assembly U-factors by calculations in the field. Instead, the 2005 Standards establish look-up tables of assembly U-factors for specified assemblies. The Commission intends to review the look-up tables (Joint Appendix IV) to determine if revisions or additions are appropriate. In the 2005 Standards the Commission established compliance credit for high quality installation of installation. These compliance

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credits apply to conventional blown and batt insulation installed within framing members. However, compliance credit does not exist for other types of insulation approaches, such as structural insulated panels. The Commission intends to consider developing field verification protocols for proper installation of these additional insulation approaches to provide a path for compliance credit for high quality installation. The contractor will provide technical support for these.

Recently, some manufacturers and installers of residential ducts have developed innovative duct joints that are self-sealing and do not require tapes, mastic, or clamps. Portions of these ducts may be assembled at the factory and other parts may be assembled at the site. The installation of these ducts may be substantially less labor intensive than conventional ducts, resulting in first cost savings. For the 2008 Standards, the Commission intends to develop installation protocols for these types of ducts to ensure proper installation, and to allow their use as part of the duct sealing compliance option. The contractor will provide technical support for evaluating the appropriateness of this change.

### **M. Water Heating**

PIER is planning to sponsor the investigation of several issues related to energy used in the distribution of hot water. The scope of PIER's research is not fully determined at this time, but the following issues are being considered.

#### **1. Demand Controlled Circulation Loops in Multi-family Buildings**

Central water heating systems are common in multi-family buildings. These central systems typically are recirculating systems with a circulation loop that distributes hot water to each of the dwelling units in the building. The circulation loops can be controlled in a variety of ways: thermosiphon, 24-hour pumping, timer controls, temperature controls (aquastat), time and temperature controls, and demand controls. Demand control circulation loops generally operate less than one hour per day, roughly one tenth the operating time of the best of the other alternatives, and roughly one tenth the energy consumption for both the loop and the pump. This investigation would determine the appropriateness of establishing a prescriptive requirement for demand control circulation loops in these buildings.

#### **2. Modulating Controls for Boilers with Storage Tanks in Multi-family**

Modulating controls are an efficient means to control central systems. These controls can modulate the temperature of the storage tank based on the hot water use patterns in the building; they keep the temperature higher during periods of peak hot water use and lower during other periods. This investigation would determine the appropriateness of requiring modulating controls for central boiler systems in multi-family buildings.

#### **3. Piping installed under slabs**

Recent testing suggests that heat loss in water pipes installed underneath slabs is three times that of pipes installed above grade. This investigation would determine whether there should be requirements to disallow installation of hot water pipes under slabs.

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### 4. Heat transfer between hot and cold piping

For both copper and crosslinked polyethylene (PEX) piping, installation practices tend to run hot and cold lines in close proximity to each other, and in many cases, actually bound to each other. There may be a significant amount of heat transfer between the hot and cold pipes. This investigation would determine whether there should be a requirement that hot and cold lines be separated from each other.

### 5. Pipe Insulation

The 2005 Standards introduced prescriptive pipe insulation requirements for hot water pipes from the water heater to the kitchen for pipes  $\frac{3}{4}$  inch in diameter or greater. This investigation would review the potential energy savings from pipe insulation accounting for the different environments that the pipe may be in to determine if pipe insulation requirements should be changed.

### 6. Distribution System Multipliers

The Standards address the extent of energy used by hot water distribution systems by establishing multipliers to adjust the energy used by the water heater with standard trunk and branch piping systems. Separate multipliers are established for five ways to control circulation loops: 24-hour pumping, timer controls, temperature controls (aquastat), time and temperature controls, and demand controls. Multipliers also are established for hot water recovery, point of use, and manifold systems. The 2005 Standards updated these multipliers based on recent analysis conducted by Davis Energy Group. This investigation would review the distribution system multipliers to determine if there is more current information that would warrant changing these distribution multipliers. This investigation also would consider changing the temperatures for the different spaces where distribution piping can be located to track hourly changes in these temperatures throughout the year to better match the TDV-based analysis approach in the Standards.

### 7. Multiple Water Heaters

For larger homes and in particular for large single story homes, the impact of standby losses of hot water tanks may be less than that of extensively long distribution systems. This investigation would conduct analyses to compare the energy and water use resulting from the length of pipe runs and from multiple water heaters. The investigation would determine if a change to the Standards would be to prefer the use of multiple water heaters for homes with long distribution systems.

### 8. Verify accuracy of current hot water heating algorithms

Changes have been made over time in the algorithms for hot water heating systems. The most significant change was made to allow the computer models to be based on the energy factor descriptor established for federal water heater standards. This change did not address standby energy losses in a way that was

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directly comparable to other water heating system types as was done with earlier modeling approaches. Also, the current water heating modeling does not separately address primary and secondary storage tanks. This is a significant concern to properly measure standby loss in all systems and to allow for proper modeling of solar water heating systems. The investigation would determine the appropriateness of revising some of the algorithms and modeling assumptions used in the residential water heating model to better address standby energy.

### 9. Reliability of Energy Savings from Tankless Water Heaters

Energy estimates that are based strictly on the efficiency of the tankless water heaters compared to water heaters with storage tanks indicate that tankless water heaters are substantially more efficient. However, tankless water heaters may not meet consumer demands for providing adequate amounts of hot water, potentially resulting in the installation of supplemental storage tanks that negate the expected energy savings benefits of the tankless water heater. This investigation will evaluate the extent to which performance characteristics of tankless water heaters may lead to installation of supplemental storage tanks, and potential solutions to this problem that could be addressed in the Standards. Potential solutions could include minimum requirements for tankless hot water heaters that insure that consumer demand for hot water will be met without installation of supplemental storage tanks or revision of the compliance credit for tankless water heaters to recognize the potential for installation of supplemental storage tanks.

### 10. Nonresidential Prescriptive Requirements for Electric Water Heaters

Late in the 2005 Standards proceeding concern was raised that the nonresidential standards allow electric water heaters to be used for prescriptive compliance without any offsetting energy efficiency improvement to account for the greater energy used by electric water heaters compared to natural gas water heaters. This creates a difference in stringency between the nonresidential prescriptive approach and the performance approach where the standard design is based on gas water heating and the energy difference for electric water heaters must be made up to achieve compliance. This issue was raised too late in the 2005 Standards proceeding for it to be addressed. This investigation would consider options for addressing this problem including the approach that is used in the residential standards.

Contingent on which of these issues are included in the scope of the PIER water heating research, the Contractor will provide technical support to produce the justification and documentation necessary for the Commission to consider specific changes based on the research in the 2008 Standards and ACM manual calculations.

## N. Codes and Standards Enhancement Initiatives

The investor-owned utilities (IOUs) conduct the statewide Codes and Standards programs through Public Goods Charge funding. For the 2008 Standards, the IOUs are conducting several Codes and Standards Enhancement (CASE) Initiatives. These initiatives address areas of potential change to the Standards that are promising based on the experience of utility

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research and incentives programs, and they document the potential energy savings, cost implications, and specific approaches associated with utility proposals for Standards changes. PG&E intends to conduct CASE initiatives for the following topic areas:

Residential 1	Window Performance Requirements	Upgrade residential window U-Factor and Solar Heat Gain Coefficient requirements to reflect currently available technology.
Residential 2	Pool pumps	Incorporate requirements for single-family residential pool pumps into the mandatory measures, for example: two-speed pumps and motors, time clocks that accommodate two-speed operation and design features, such as limiting the flow velocity to encourage proper pipe sizing appropriate to pump selection.
Residential 3	Cool roofs	Consider adding high-slope cool roofs as a prescriptive requirement.
Nonresidential 1	Insulation Levels	Review literature and increase prescriptive insulation requirements, as appropriate.
Nonresidential 2	Indoor Lighting -	Review ASHRAE, IESNA, and other literature, and recent technological advances and recommend lower lighting power densities (LPDs) as appropriate, including retail lighting and the tailored method. Additionally, review present standards for incorrect conversion from Lux to foot-candles and correct these errors. Add or convert T-24 to Lux-based standards.
Nonresidential 3	Lighting Controls, Performance Approach	Revise control credits for the performance approach based on best available monitoring data so that they accounts for hourly benefits consistent with the TDV-basis of the Standards.
Nonresidential 4	Outdoor Lighting	Analyze the outdoor lighting LPDs in terms of improvements in technology and practice to determine if there are cost effective changes that can be made.
Nonresidential 5	Outdoor Signs	Review the requirements for outdoor signs to determine if there are cost effective changes that can be made to promote more efficient sign illumination, including requirements for channel letter signs and linear architectural uses of neon.
Nonresidential 6	Lighting / Envelope / Daylighting	Expand the skylighting requirements to include smaller buildings and buildings with lower ceilings.
Nonresidential 7	Overall Envelope Approach	Review the overhang and shading credits and envelope tradeoff procedures in Standards Section 143(b) to determine if they should be changed to reflect the hourly benefits consistent with TDV.
Nonresidential 8	Refrigerated Warehouses	Develop envelope and mechanical requirements based on best practices currently in the industry, including revision of the temperature conditions for exemption of buildings with process energy functions. Analyze potential for improving modeling and Standards requirements for walk-in coolers and freezers.

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Nonresidential 9	Alterations	Require lighting systems to meet T24 requirements when 30% of the fixtures are being replaced during alteration (as opposed to the current 50% criteria). Require automated bi-level controls in intermittently occupied spaces in offices, warehouses, and hotels/motels.
Nonresidential 10	Sidelighting	Require sidelighting (daylighting through windows) for specific occupancy types, including potential changes to the definition of daylit area and requirements for daylighting controls.
Nonresidential 11	Multifamily exhaust fan systems	Require variable speed drive control of exhaust fan systems to maintain efficiently exhaust stack pressure and develop ACM modeling rules.
Nonresidential 12	HVAC Standard Design Specifications	Revise the Standard Design specifications in the ACM manual to require more efficient standard systems.
Nonresidential 13	Single zone VAV	Develop requirements for VAV control of single zone systems using proven technologies.
Nonresidential 14	DDC to Zone level	Require Direct Digital Control (DDC) of HVAC system components at the zone level for new construction and retrofit projects, including development of acceptance requirements for these controls.
Nonresidential 15	Cool roofs	Update reflectance for weathering effects. Consider adding high-slope cool roofs as a prescriptive requirement.

In addition, the Southern California Edison Company (Edison) will be sponsoring investigation of Demand Responsive devices and protocols consistent with the Demand Response topic area.

Edison also is continuing work begun during the 2005 Standards proceeding to develop a compliance option for “staged-volume fan control.” Packaged single-zone rooftop system in the 7-1/2 to 15 ton range are one of the most common HVAC system sold in California. These units commonly have two stages of heating and two stages of cooling. Most efforts to date to reduce the energy consumption of this equipment have been focused on increasing the heating and cooling efficiencies of these units, and while further gains are possible, the gains will be incrementally smaller and relatively expensive. However, little attention has been given to the reducing the energy use of the fans, even though the fans may consume as much or more energy than the compressors on an annual basis. An electronic variable-speed drive (VSD) that stages fan output with the heating/cooling staging can typically cut the annual fan energy by more than half, resulting in an annual efficiency gain of 25% for the HVAC system. For the 2008 Standards, Edison intends to complete prototype development and demonstration of units with staged-volume fan control, and changes to the ACM manual to provide compliance credit for such equipment.

The Contractor will provide technical support to assist the Commission in the review and improvement where necessary of these utility CASE Initiatives, and integration of these proposals into the 2008 Standards. This will include coordination with the utilities for review of the technical work and draft CASE initiative reports prior to public presentation, and integration



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of CASE initiative conclusions into the Standards, ACM manuals, Joint Appendices, and compliance manuals.

### **O. Utility Measurement, Assessment and Evaluation Studies**

On an ongoing basis, the utilities conduct measurement, assessment and evaluation (MA&E) studies to collect data for improving utility program design and effectiveness. Utility MA&E studies related to codes and standards programs and new construction programs can provide valuable data regarding the energy using characteristics and features of new California buildings, the level of compliance with the existing Standards, and perceptions of key factors in the construction process for how to increase the efficiency of new California buildings.

In the AB 970 (2001 Standards) proceeding and the 2005 Standards proceeding, a database of DOE 2.1 simulations for 800 new nonresidential buildings, which was created as a result of a Nonresidential New Construction MA&E study, was used to estimate the impacts of proposed Nonresidential Standards changes. Although the Commission has historically used a prototype approach to evaluate the impacts of Standards changes for residential buildings, a similar database of new residential buildings was used for comparison purposes to estimate the impacts of proposed Residential Standards changes for the 2005 Standards. The 2008 Standards should attempt to make maximum use of the data and findings of utility MA&E studies.

### **P. Lighting Improvements**

As a part of the 2005 Standards, the Commission adopted significant changes to both residential and nonresidential lighting. The residential lighting standards now require that in kitchens, at least 50% of the watts must come from high efficacy sources. Lighting in bathrooms must be either high efficacy or controlled by a manual-on occupant sensor. Lighting in support areas such as garages, utility rooms, and laundry rooms, as well as lighting in dining areas, bedrooms, and hallways, must be either high efficacy or controlled by a manual-on occupant sensor or dimmer. Exterior lighting must also be high efficacy or controlled by an automatic-on occupant sensor. Definitions for bathrooms and kitchens were also clarified.

For the 2008 Standards, the Commission intends to consider further refinement of the 2005 requirements for bathrooms to require at least one high efficacy light source in bathrooms when all other luminaires are controlled by occupant sensors. In addition to being an energy efficiency measure, this is also a safety feature that ensures that at least one light stays on while the bathroom is occupied if no motion is detected within the preset time. The 2005 Residential Compliance Manual addresses this issue as an advisory note; the 2008 Standards will consider it as a mandatory measure. For support areas, the Commission intends to consider requiring high efficacy luminaires, and removing the controls exception.

The 2005 Standards significantly modified nonresidential lighting requirements. Availability of more efficient lighting technologies allowed the Commission to lower the lighting power densities (LPDs) for many complete building method and area category method categories. New types of uses and function areas were added to the complete building method and area category methods. The tailored method was completely revamped for simplification, facilitating compliance and enforcement of the requirements, closing several loopholes, and lowering general lighting and tailored special allowance LPDs. The 2005 tailored method values for special lighting allowances were derived assuming incandescent lighting sources such as MR-16 luminaires. Ceramic metal halide (CMH) luminaires were considered as an alternative to the

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incandescent sources but were found to be marginally not cost effective. For the 2008 Standards, the Commission intends to reconsider CMH sources for the tailored special lighting allowances to determine if they are more cost effective than incandescent sources.

For the 2008 Standards, the ASHRAE/IES 90.1 LPDs must be compared against the 2005 complete building method and the area category method to determine if there are opportunities for further refinement of the Title 24 LPDs. This analysis must consider new higher efficacy lighting fixtures and the conceptual differences between Title 24 and 90.1 lighting standards. One conceptual difference for example is that Title 24 allows lighting power adjustments for certain lighting controls while 90.1 does not. Also, Title 24 relies on the tailored method for specialized lighting requirements, such as retail, while 90.1 provides special allowances within the space by the usage type of space (roughly equivalent to the Title 24 area category method).

The Commission also intends to consider revising the lighting standards based on lux rather than foot-candles. IESNA guidance documents including the 9<sup>th</sup> Edition of the Handbook are lux-based. Lux is the SI (International System of Units) measure of illuminance whereas foot-candles is the illuminance measure in the English system of measurement. Title 24 currently uses an imprecise conversion factor of 10 lux per foot-candles. The correct conversion is 10.76 lux per foot-candles. Therefore, the current practice of basing the Standards on foot-candles (with the incorrect conversion) causes an error of about 7.6%, resulting in over-illuminating the space relative to IESNA guidance and the associated waste of energy.

The 2005 outdoor lighting power densities must be revisited for the 2008 cycle. IESNA design guidance documents often recommend more than one illuminance level for the same task. The Commission decided to incorporate the highest illumination levels in all IESNA recommended practices into the lighting models that were used to determine Standards LPDs. This led to LPDs that are perceived to be higher than necessary. For the 2008 Standards, the Commission intends to revisit the LPDs for outdoor lighting to ensure that they represent the latest information from IESNA and are based on sound models.

The use of light emitting diodes (LEDs) is rapidly expanding in the marketplace for a variety of residential, nonresidential, and outdoor lighting applications. The advantages of LEDs include full range dimmability and compatibility with occupant sensors. LEDs, however, generally have not had high enough lumen per watt ratings to qualify for consideration as high efficacy sources under the Standards. Recently, amber light-emitting diodes (LEDs) have surpassed 40 lumens per watt of efficacy, which means that LED luminaires may be considered high efficacy in some applications. LEDs also are being used to provide low energy lighting functions for particular applications, such as a "night light" function for exterior building entrance lighting and hotel bathroom lighting and to add low energy decorative "sparkle" interior luminaires. The Commission intends to consider whether the special characteristics of LEDs should be encouraged for particular applications in the Standards.

PIER has sponsored development of a "smart bathroom fixture" for hotels, motels, and dormitories that is a combination task and night-light with an integrated occupant sensor control. An LED provides night lighting when the bathroom is not occupied, and fluorescent lighting provides full task lighting when occupancy is detected. The Commission intends to consider whether this type of fixture should be required by the 2008 Standards.

The 2005 Standards provide control credits for occupant sensor-controlled multi-level switching that controls fixtures in hallways of hotel/motels, commercial storage areas, and library stacks. Recently, PIER sponsored the development of a "bi-level stairwell lighting fixture" equipped with

## Section IV – Scope of Work

an occupant sensor. The fixture provides two lighting levels, a brighter level for when the stairs are occupied and a low (standby) level when the stairs are unoccupied. The Commission intends to consider requiring this type of occupant control for stairwells in the 2008 Standards.

The 2005 Standards, for the first time, included prescriptive requirements for skylights in spaces larger than 25,000 square feet and ceiling heights greater than 15 feet. A 2008 PG&E CASE initiative will explore the possibility of extending this requirement to buildings with smaller areas and lower ceilings. Another PG&E case initiative will consider prescriptive requirements for sidelighting (daylighting from windows). A PIER project also has been investigating self-calibrating daylighting sensors for these applications. For the 2008 Standards, the Commission intends to consider all of these daylighting approaches.

The Contractor will provide technical support for the justification and documentation of Standards and ACM changes as necessary for all of these lighting topic areas.

### **Q. High Efficiency Cooling Equipment for Hot and Dry Climates**

Currently PIER is sponsoring two projects aimed at mitigating peak air conditioning demand in the state: Hot and Dry Air Conditioning (HDAC) and Advanced Roof Top Units (ARTU). The goals of HDAC include:

- developing cost effective 3 and 5 ton A/C units for hot and dry climate applications to reduce demand by 15% to 25% and reduce operating costs by 10% to 25%,
- producing A/C design guideline specifications for HDAC,
- investigating various control strategies and building interactions to reduce electrical peaks.

These high efficiency goals for HDACs are achieved through the following technical approaches:

- Produces sensible capacity only (except when indoor dewpoint exceeds 57 to 60°F)
- Provides high sensible EER ) (combination of high sensible heat ratio coil and high EER)
- Reduced sensitivity to high external static pressure
- Reduced sensitivity to incorrect refrigerant charge

HDAC hardware advances to achieve these goals include the following:

- High efficiency heat exchangers
- Increased heat transfer area
- Improved overall coefficient of heat transfer
- Low temperature differential
- High efficiency compressor with downsized capacity
- Low superheat with electronic expansion valve
- High efficiency fans, motors, and air passages within the cabinet
- Optimized evaporator airflow
- Design airflow: ~ 340 cfm per ton @ 0.5"WC
- Possibly variable air volume
- Condenser airflow optimized to combined efficiency of all components

## Section IV – Scope of Work

The goals of ARTU are to produce a prototype unit that:

- provides continuous ventilation during building occupancy periods to meet current ventilation standards, thereby improving indoor air quality ,
- has improved reliability, thereby requiring less maintenance, and
- reduces energy use through avoided operational degradation.

Improved ARTU features include these:

- Improved Outside Air and Fan control
- Improved economizer reliability
- On-board fault detection and diagnostics
- Data logging capabilities
- Communication with building supervisory control system
- Fault-tolerant design
- Low voltage detection and protection
- Tolerant of improper refrigerant charge

Another PIER project is evaluating Indirect-Direct Evaporative Coolers (IDEC) for hot/dry climates. IDEC takes advantage of low dew point temperatures in hot and dry climates to provide supply air below wetbulb temperatures. In hot and dry climate zones, IDEC can cool buildings more efficiently than conventional air conditioners with compressors. Moreover, IDEC avoids some of the moisture and comfort problems associated with swap coolers, increasing the chances of acceptability by end users.

For the 2008 Standards, the Contractor will consider compliance options for the HDAC, ARTU, and IDEC cooling equipment.

## Section V – Evaluation Criteria

### Section V. - Evaluation Criteria

#### How the SOQ Will be Scored

The Evaluation Committee will award points for the technical criteria based on the following considerations.

#### Point Scale

0-1 Points	<ul style="list-style-type: none"><li>✓ The response is not in substantial accord with the RFQ requirements.</li><li>✓ Has a potential significant effect on the amount paid or net cost to the State or the quality or quantity of the product and/or service.</li><li>✓ Provides an advantage to one competitor over the other competitors. For example, not paying minimum wages.</li></ul>
2-4 Points	<ul style="list-style-type: none"><li>✓ The proposal states a requirement, but offers no explanation of how or what will be accomplished.</li><li>✓ Proposal does not completely respond to the criteria. Information presented does not provide a good understanding of Bidder's intent, does not give detailed information requested by the RFQ, or does not adequately support the proposal.</li><li>✓ The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.</li></ul>
5-6 Points	<ul style="list-style-type: none"><li>✓ Satisfies the minimum requirements and describes generally how and/or what will be accomplished.</li><li>✓ Provides an average understanding of the Bidder's response to the RFQ.</li></ul>
7-8 Points	<ul style="list-style-type: none"><li>✓ Response satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an exemplary manner, using sample products and illustrative materials (i.e. diagrams, charts, graphs, etc.).</li><li>✓ A response which gives a clear and detailed understanding of the Bidder's intent. Response presents a persuasive argument supporting the proposal.</li></ul>
9-10 Points	<ul style="list-style-type: none"><li>✓ Exceeds the minimum requirements and specifically describes how and/or what will be accomplished in a superior manner, both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).</li><li>✓ Outstanding response with clear, detailed and relevant information exceeding the information requested. Response presents a compelling argument supporting the proposal.</li></ul>

#### Ranking an SOQ

After each SOQ is scored, it will be placed on a list, in rank order, with the highest scoring SOQ placed first and the remainder in descending order based on score.

## Section V – Evaluation Criteria

### Criteria for Evaluation

Criteria	Key Elements	Weight	Max Points	Point Total
<b>1. Company/Team Organization</b>	<ul style="list-style-type: none"> <li>a. Team management structure</li> <li>b. Organization administrative structure</li> <li>c. Appropriate level and type of staffing</li> <li>d. Accessibility to the Energy Commission</li> <li>e. Approach to Contract Management</li> </ul>	2	30	60
<b>2. Experience and Qualifications</b>	<ul style="list-style-type: none"> <li>a. Specific Knowledge and Experience Concerning Each Key Topic Area</li> <li>b. Specific Knowledge and Experience Concerning Each Work Statement Task</li> <li>c. Specific Knowledge and Experience Concerning Development and Implementation of California Building Energy Efficiency Standards</li> <li>d. Effectiveness and Efficiency of Proposed Approaches to Address Each Key Topic Area</li> <li>e. Demonstrated Ability to Organize and Manage a Team of Technical Experts to Effectively Complete Work Statement Tasks and Deliverables in a Timely Manner</li> <li>f. Efficiency and Effectiveness of Proposed Approaches to Address Topic Areas Not Anticipated by this RFQ</li> </ul>	4	30	120
<b>3. Approach to Work Statement and Methodology</b>	<ul style="list-style-type: none"> <li>a. Consistency with Work Statement emphasis and priorities</li> <li>b. Thoroughness and clarity of proposal</li> <li>c. Demonstrated experience with similar tasks</li> <li>d. Demonstrated understanding of Scope of Work tasks</li> </ul>	3	30	90
<b>Evaluation of Written Proposal (Maximum Points)</b>				<b>270</b>
<b>4. Discussion</b>	<ul style="list-style-type: none"> <li>a. Response to questions</li> <li>b. Quality of presentation</li> <li>c. Explanation of approach to tasks in Scope of Work</li> </ul>	1	10	10
<b>OVERALL TOTAL SCORE (Maximum Points)</b>				<b>280</b>

# ATTACHMENT 1

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION  
Contracts Office

## CONTRACTOR STATUS FORM

Rev 3/03

Contractor's Name \_\_\_\_\_

County \_\_\_\_\_

Address \_\_\_\_\_

Federal Employer ID

# \_\_\_\_\_

Phone

# \_\_\_\_\_

FAX

# \_\_\_\_\_

### STATUS OF CONTRACTOR PROPOSING TO DO BUSINESS:

☐ Individual (Sole Proprietor) ☐ Limited Partnership ☐ General Partnership

☐ Corporation ☐ Limited Liability Corporation ☐ Other

### INDIVIDUAL

If a sole proprietorship, state the true name of sole proprietor: \_\_\_\_\_

### PARTNERSHIP

If a partnership, list each partner, including limited partners, stating their true name and their interest in the partnership: \_\_\_\_\_

### CORPORATION

If a corporation, place and date of incorporation: \_\_\_\_\_

Date corporation was authorized by Sect. of State: \_\_\_\_\_

President: \_\_\_\_\_ Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_ Treasurer: \_\_\_\_\_

Agent for service of process and address if different from above: \_\_\_\_\_

### LIMITED LIABILITY COMPANY

If a Limited Liability Company, date LLC was authorized by the Secretary of State: \_\_\_\_\_

Name(s) of manager(s) \_\_\_\_\_

Agent for service of process and address if different from above: \_\_\_\_\_

### SMALL BUSINESS PREFERENCE

Are you claiming preference as a small business? ☐ YES – Attach approval letter from Office of Small and Minority Business.

☐ NO

Date you filed for small business preference: \_\_\_\_\_ Your small business ID number: \_\_\_\_\_

### OTHER

Explain: \_\_\_\_\_

NOTE: This form must be completed or your proposal may be rejected.

## California Disabled Veteran Business Enterprise Program Requirements

(REV. 9-15-03)

**AUTHORITY.** The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for state contracts is established in Public Contract Code (PCC), Section 10115 et seq., Military and Veterans Code, Section 999 et seq. and California Code of Regulations, Title 2 (2CCR), Section 1896.60 et seq.

**The minimum DVBE participation percentage is 3% for this solicitation unless another percentage is specified in the solicitation.**

**INTRODUCTION.** The bidder must document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that fail to fully document one of the DVBE program requirements options shall be considered non-responsive and ineligible for award.

All information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation with this information in accordance with the requirements of the Public Contract Code, Section 10115, et seq. and the Military and Veterans Code, Section 999 et seq. and follow the investigatory procedures required by the California Code of Regulations, Section 1896.80.

Only State of California, Office of Small Business and DVBE Certification certified DVBEs who perform a commercially useful function relevant to this solicitation may be used to satisfy the DVBE program requirements. The criteria for performing a commercially useful function are contained on page 5, Resources & Information and California Code of Regulations, Title 2, Section 1896.61(l). Verify each DVBE subcontractor's/supplier's certification with the Office of Small Business and DVBE Certification Section to ensure DVBE eligibility.

<b>To meet the DVBE program requirements, bidders must complete and fully document at least one of the following compliance options:</b>
<b>Option A - Commitment to full DVBE participation</b> - For a bidder who is a DVBE or who is able to meet the commitment to use identified DVBE(s) to fulfill the full DVBE participation goal.
<b>Option B - Good Faith Effort</b> - For a bidder documenting its completed effort, made prior to the bid due date, to obtain DVBE participation that may result in partial or no DVBE participation.
<b>Option C - Business Utilization Plan</b> - For a bidder using an annual plan (subject to approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and information technology.

**PLEASE READ ALL INSTRUCTIONS CAREFULLY.** These instructions contain information about the DVBE program requirements, bidder responsibilities, and requirements for performing and documenting each of the three available options as detailed below. Bidders are responsible for thorough review and compliance with these instructions. Document your option selection on the attached STD Form 840, Documentation of Disabled Veteran Business Enterprise Program Requirements.



**OPTION A – COMMITMENT** -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 or A2. Bidders must document DVBE participation commitment by completing and submitting the attached STD 840. Failure to complete and submit STD 840 (Side 1) as instructed shall render your bid non-responsive.

The bidder must provide, prior to contract award, a written agreement signed by the bidder and each proposed DVBE subcontractor. The written agreement will include the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, total amount of contract to be paid to the DVBE, and the percentage of the entire contract that will be awarded to the DVBE, with each DVBE subcontractor. If this information is contained in the bidder's DVBE written agreement of intent, the agreement may be attached to the STD 840. If further verification is necessary, the state will obtain additional information to verify the above requirements.

**Method A1. Certified DVBE bidder:**

- a. Commit to performing at least 3% of the contract bid amount (unless otherwise specified) with your firm or in combination with other DVBE(s).
- b. Document DVBE participation on STD 840 (Side 1) and attach a copy of all applicable certifications.
- c. A DVBE bidder working in combination with other DVBEs shall be requested to submit proof of its commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. When requested, the written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the requested written agreement as specified may be grounds for bid rejection.

**Method A2. Non-DVBE bidder:**

- a. Commit to using certified DVBE(s) for at least 3% (unless otherwise specified) of the bid amount.
- b. When a bidder commits to less than the required 3% DVBE participation or its commitment may fall below 3% if specific line items/groups are not selected for award, then Option B, Good Faith Effort must be completed in addition to Option A, Commitment.
- c. Document DVBE participation on STD 840 (Side 1) and attach a copy of the DVBE's certification.
- d. Prior to contract award, a bidder is to submit proof of their commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. The awarding department contracting official named in this solicitation will contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted DVBE information. The written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written agreement as specified may be grounds for bid rejection.

**OPTION B – GOOD FAITH EFFORT (GFE)** performance and documentation requirements must be completely satisfied prior to bid submission if you are unable to obtain and commit to the full DVBE participation percentage goal (Option A) and do not exercise Option C. Perform and document the following Steps 1 through 5 on both sides of the attached STD 840 form. Failure to perform and document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting both sides of STD 840, shall result in your bid being deemed non-responsive. Step 3, Advertisement, is required unless specifically waived for this solicitation due to time limits imposed by the awarding department.

**Step 1 Awarding Department** - Contact the department's contracting official named in this solicitation to identify interested DVBEs. You must fully document this contact and describe the results on STD 840 (Side 2).

**Step 2 Other State and Federal Agencies, and Local Organizations**

**STATE** Contact the Department of General Services, Procurement Division's (DGS-PD) Office of Small Business and DVBE Certification (OSDC) to obtain a list of certified DVBEs by telephone at (916) 322-5060 for the 24-hour automated telephone system or (916) 375-4940 for the receptionist during normal business hours. This information can also be obtained by searching the online database at <http://www.pd.dgs.ca.gov/smbus>. Begin by selecting Certified Firm Inquiry Services, then search by using either the Keyword Search or the Standard Query options. You must fully document this contact and describe the results on STD 840 (Side 2).

**FEDERAL** Search the U.S. Small Business Administration's (SBA) online database (Pro-Net) at <http://www.pro-net.sba.gov> to identify potential DVBEs. Select these minimum options in the following sequence: select Search Database; select CA under "State"; select Service Disabled Veteran under "Other Ownership Data"; and "Search Using These Criteria" at the page bottom. The database takes a few moments to query, and then your list will appear on your screen. You may select other criteria to focus your search. You must fully document this contact and describe the results on STD 840 (Side 2).

**LOCAL** Contact at least one local DVBE organization to identify DVBEs. For a list of local DVBE organizations, please refer to the DVBE Resource Packet that may be accessed online (<http://www.pd.dgs.ca.gov/smbus> - select "DVBE Resource Packet") or obtain a hardcopy by requesting it from DGS-PD Office of Small Business and DVBE Outreach and Education (see the Resources & Information page). You must fully document your contact with local DVBE organizations and describe the results on STD 840 (Side 2).

**Step 3 Advertisements** are mandatory unless waived by the awarding department.

**CONTENT REQUIREMENTS:** Include all of the following in your advertisement(s): (1) company name; (2) contact name; (3) address; (4) telephone and facsimile (if applicable) numbers; (5) e-mail address (if applicable); (6) the state's solicitation number(s); (7) goods and/or services for which the state is soliciting; (8) the location of the work to be performed; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**HOW MANY & WHERE TO PUBLISH:** Bidders must publish two (2) ads, one (1) each in a trade paper and a DVBE focus paper unless the paper is dual purpose (fulfilling both trade and focus requirements as defined in California Code of Regulations, Title 2, Section 1896.61(k)), in which case one (1) ad is acceptable. Please see the DVBE Resource Packet for a list of acceptable publications.

**WHEN:** Ads must be published after the solicitation's release date and at least 14 days prior to the bid due date, unless a different time period is expressly established in this solicitation.

**DOCUMENT & SUBMIT:** On STD 840 (Side 2), document the publication name(s) in which you published advertisement(s), the contact name and phone number, and date of publication. Include a copy(ies) of the advertisement(s) with your bid.

**Step 4 Invitations to Participate**

**WHO:** Invite (solicit) DVBEs who can provide relevant goods and/or services to this solicitation to subcontract with you. Conducting Steps 1 through 3 produces a list of DVBEs from which you may choose potential DVBEs subcontractors/suppliers to contact. Bidders are advised to contact as many DVBEs (who provide relevant goods and/or services in the applicable location(s)) as possible. Non-California-certified DVBEs are not eligible -- please refer those DVBEs to the OSDC to learn about certification (see the Resources & Information page for contact information).

**FOR WHAT:** Solicit DVBEs for goods and/or services relevant to the state's solicitation. If you are unable to identify specific portion(s) of the proposed contract to subcontract, the state encourages bidders to avoid making a predetermination that no DVBEs are able to perform without first contacting and soliciting participation from them. This allows DVBEs to respond whether they can or cannot provide any goods or services related to the solicitation, and provides a bidder with responses for consideration.

**HOW TO INVITE & CONTENT REQUIREMENTS:** Written invitations are required. At a minimum, invitations must contain all of the following: (1) company name; (2) contact name; (3) address; (4) phone and facsimile (if applicable) numbers; (5) return e-mail address (if applicable); (6) the state's solicitation number; (7) goods and/or services for which the state is soliciting; (8) location of work; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**WHEN:** Provide DVBE's with a reasonable time period to receive and respond to your invitation, and to be considered by you for participation as described in Step 5, prior to your bid submission.

**DOCUMENT & SUBMIT:** Bidders must document the completed contacts on STD 840 (Side 1), Section A. Attach additional copies of STD 840A as necessary to list your DVBE contacts. You are required to attach a copy of: (1) each invitation or offer sent by letter, fax or e-mail; and (2) confirmation of transmittal or delivery. Your bid shall be considered non-responsive if it fails to include copies of the written invitations and delivery confirmations.

**Step 5 Consider all responding DVBEs** for contract participation. Consideration must be based on business needs for the contract and the same evaluation criteria must be applied to each potential DVBE subcontractor/supplier offering the same goods and services. You must document on STD 840 (Side 1), Section A any firm(s) selected for participation; or if not selected, the reason for non-selection. Attach additional copies of STD 840A as necessary to list all of your DVBE contacts.

**OPTION C – THE DVBE BUSINESS UTILIZATION PLAN** (BUP) option permits bidders to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 3%. **DVBE BUPs apply only to solicitations for goods and information technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 3% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts in the State, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Outreach and Education for assistance. Bidders choosing this option must properly complete and submit STD 840 (Side 1) and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive.

## RESOURCES AND INFORMATION

For assistance in preparing a responsive participation document, **contact the contracting official at the awarding department for this solicitation.** In accordance with Public Contract Code Section 10115.2(b)(3), bidders must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in meeting these contract requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Outreach and Education and request the "DVBE Resource Packet."

### U.S. Small Business Administration (SBA)

*Internet contact only – see instructions for website navigation*

PRONET Database: <http://www.pro-net.sba.gov>

### FOR:

**Service-Disabled Veteran-owned businesses in California**

(Remember to verify each DVBE's California certification.)

**Local Organizations** (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

### FOR:

**List of potential DVBE subcontractors**

### DGS-PD Office of Small Business and DVBE Certification (OSDC)

707 Third Street, Room 400, West Sacramento, CA 95605

Website: <http://www.pd.dgs.ca.gov/smbus>

24-hour automated information

& document requests: (916) 322-5060

Receptionist: (916) 375-4940

Fax: (916) 375-4950

### FOR:

**Directory of Certified DVBEs  
Certification Applications  
Certification Information  
Certification Status, Concerns**

### DGS-PD Office of Small Business and DVBE Outreach and Education

707 Third Street, 2<sup>nd</sup> Floor, West Sacramento, CA 95605

Voice, 8 am—5 pm: (800) 559-5529

Fax: (916) 375-4597

### FOR:

**DVBE Program Participation Requirements  
DVBE Program Info. and Statewide Policy  
DVBE Resource Packet  
DVBE Business Utilization Plan  
Small Business/DVBE Advocates**

### Advertisement Format Example

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBEs are invited to participate as a potential subcontractor/supplier to perform a commercially useful function specific to ***DGS' IFB No. 12345*** for ***fencing materials in Chowchilla.***  
***DVBE responses due to me 1/1/02;***  
***Bids due to the State 1/15/02.***

Contact: ***ABC Company***  
***Jane Doe, General Manager***  
***123 Main Street, Sacramento, CA 95814***  
voice: ***555/555-5555***; fax: ***555/555-5556***  
or e-mail: ***jane.doe@abcco.com***

### Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function. A DVBE contractor, subcontractor or supplier is considered performing a commercially useful function when it meets the following criteria:

(1) The business concern is: responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions, and

(2) The business concern is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

# DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD 840 (REV. 9-15-2003)

**Designation Of Option** Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements.

- ☐ **OPTION A – I commit to meeting the full DVBE contract participation requirement.**  
Complete STD 840, Section A.
- ☐ **OPTION B – I performed and documented a Good Faith Effort (GFE) in an attempt to obtain DVBE participation.**  
Complete STD 840, Section A (for GFE Steps 4 & 5) and STD 840 (REVERSE), Section B (for GFE Steps 1–3).
- ☐ **OPTION C – I submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."**

## A. Full information must be provided.

**For contract participation commitment**, at least one DVBE must be listed. DVBEs must perform a commercially useful function. List the specific goods and/or services with the dollar and/or percentage value(s) that the DVBE(s) commit(s) to provide and the DVBE's tier (prime contractor = 0, subcontractor to prime contractor = 1, subcontractor to Tier 1 subcontractor = 2, etc.). If both the estimated dollar amount and percentage are listed, the higher value supercedes. Attach additional pages to list all other DVBE subcontractors/suppliers (you may use STD 840A). During contract performance, all requests for substituting named DVBEs must be made in accordance with the provisions of California Code of Regulations, Title 2, Section 1896.64(c).

**For Good Faith Effort (GFE)**, use this section to document your first completed contacts with (Step 4), and consideration of (Step 5), relevant DVBEs. Business reasons for non-selection must be documented. Attach additional pages to list all other DVBE contacts (you may use STD 840A). Copies of all written invitations and delivery confirmations must also be attached and submitted with the bid.

BOTH SECTIONS MUST BE COMPLETED FOR GOOD FAITH EFFORT AT LEAST ONE DVBE MUST BE NAMED FOR PARTICIPATION	Date Contacted / /		DVBE Company Name (If you are the Prime and a DVBE enter your name, otherwise enter the solicited subcontractor.)			
	DVBE Contact Name & Reference #		Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code					
	OR	<input type="checkbox"/> <b>Yes, I am, or I will subcontract with, the listed DVBE to provide the following goods and/or services:</b>				
		Specific Goods and/or Services			Estimated \$ and/or % \$ / %	Tier
		<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>				
	Date Contacted / /		DVBE Company Name			
	DVBE Contact Name		Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code					
OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>					
	Specific Goods and/or Services			Estimated \$ and/or % \$ / %	Tier	
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>					

**ATTACH ADDITIONAL PAGES (OR USE STD 840A) TO LIST ALL OTHER DVBE CONTACTS**

Go to Side 2, Section B to continue Good Faith Effort documentation ⇨

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

- B. Documentation of Good Faith Effort Steps 1, 2 and 3**—Remember to carefully read all instructions prior to completing this form. Please refer to the Resources & Information page for detailed contact information and a sample advertisement format.

**STEP 1. Contact the Awarding Department** (the contracting official, unless another contact is specified) to identify potential DVBE subcontractors/suppliers, **and document this contact as required.**

Date / /	Contact Name	Telephone Number ( )
Describe Result		

**STEP 2. Contact all of the following and document your contacts as required:** Other state and federal agencies and local organizations to identify potential DVBE subcontractors/suppliers.

**Other State Agency** – Procurement Division, Office of Small Business and DVBE Certification (Certification Office)

PHONE CONTACT <b>OR</b> ONLINE SEARCH	Date / /	Telephone Number <b>(916) 322-5060</b> <b>(916) 375-4940</b>	Contact Name	<input type="checkbox"/> I contacted the Certification Office for a list of California certified DVBEs.
	Date / /	Internet Address <b>http://www.pd.dgs.ca.gov/smbus</b>		<input type="checkbox"/> I searched the Certification Office's online database to identify California certified DVBEs.

Describe Result

**Federal Agency** – U.S. Small Business Administration (SBA) online database

Date / /	Internet Address <b>http://www.pro-net.sba.gov</b>	<input type="checkbox"/> I searched the federal online database for California DVBEs.
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Describe Result

**Local DVBE Organizations** – Contact at least one local DVBE organization—refer to the DVBE Resource Packet for a list of acceptable contacts. (**http://www.pd.dgs.ca.gov/smbus** - select "DVBE Resource Packet")

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) http://www.
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Describe Result

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) http://www.
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Describe Result

**STEP 3. Publish advertisements:** Two (2) advertisements: One (1) ad in an accepted trade paper; and one (1) ad in an accepted DVBE focus paper (please see the DVBE Resource Packet for a list of all accepted publications); unless the paper is dual purpose (fulfilling both trade and focus requirements), in which case one (1) ad is acceptable. **Document this step as required and remember to attach a copy of your advertisement(s).**

<b>Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	
<b>Trade Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	

☐ I certify the ad was placed to reach both trade and focus audiences through this one publication.

<b>Trade and Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

***This document may be used as a continuation from Section A, STD 840 (REV. 9-15-2003)***

Date Contacted / /	DVBE Company Name		
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DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
-------------------	-------------------------	-------------------	-----------------------

Street Address, City, State and Zip Code

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
-----------------------	-------------------	--	--

DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
-------------------	-------------------------	-------------------	-----------------------

Street Address, City, State and Zip Code

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
-----------------------	-------------------	--	--

DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
-------------------	-------------------------	-------------------	-----------------------

Street Address, City, State and Zip Code

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
-----------------------	-------------------	--	--

DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
-------------------	-------------------------	-------------------	-----------------------

Street Address, City, State and Zip Code

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003) (REVERSE)

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		



# DVBE Program Requirements Supplier Checklist (REV. 9-15-2003)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be evaluated compliant.

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## ☐ **OPTION A: COMMITMENT TO DVBE CONTRACT PARTICIPATION**

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- ☐ STD 840 included with bid
  - ☐ DVBE Written Agreement
  - ☐ Designated the Commitment Option – Checked the first box
  - ☐ Listed at least one California certified DVBE subcontractor
  - ☐ Checked the box(es) for “Yes ...”
  - ☐ Listed specific goods and/or services DVBE(s) agrees to provide
  - ☐ Proposed DVBE contract performance is a “commercially useful function” relevant to the contract
  - ☐ Listed the estimated dollar amount and/or percentage of contract for the DVBE's participation
  - ☐ Proposed DVBE participation meets the 3% requirement (unless a different percentage is specified)
  - ☐ Attached a copy of the DVBE's certification letter from the Department of General Services
- 

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## ☐ **OPTION B: GOOD FAITH EFFORT (GFE)**

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- ☐ STD 840 included with bid
  - ☐ Designated the GFE Option – Checked the second box
  - ☐ (Step 4) Listed all DVBEs contacted and invited to perform on the proposed contract
  - ☐ Confirmed that listed DVBEs are California certified
  - ☐ Attached copies of the invitations sent to the listed DVBEs
  - ☐ Invitations included the required contact information
  - ☐ Attached copies of the delivery confirmations for invitations to DVBEs (e.g. mail receipts, fax confirmations, etc.)
  - ☐ (Step 5) Checked the “No” boxes and listed the business reasons for non-selection of DVBEs contacted
  - ☐ (Step 1) Contacted the Awarding Department and listed contact and results
  - ☐ (Step 2) Contacted Other State agency (Office of Small Business and DVBE Certification) and listed the contact and results
  - ☐ (Step 2) Searched the Federal Pro-net internet database and noted the results
  - ☐ (Step 2) Contacted Local DVBE Organization(s) and listed the contact and results
  - ☐ (Step 3) Advertised – IF NOT WAIVED
    - Listed full information for the advertisement(s) and publication(s)  
[2 ads in one trade and in one DVBE focus publication; **OR** 1 ad in one dual-purpose publication]
  - ☐ Attached a copy of the advertisement(s)
  - ☐ The advertisement(s) were published at least 14 days prior to the bid due date
  - ☐ The advertisement(s) included my required contact information
- 

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## ☐ **OPTION C: BUSINESS UTILIZATION PLAN (BUP)**

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- ☐ **Prior to the bid due date** -- Submitted a BUP to DGS-PD and received approval
  - ☐ STD 840 included with bid
  - ☐ Designated the BUP Option – Checked the third box
  - ☐ Attached a copy of the BUP Approval letter from DGS-PD
-

## California Disabled Veteran Business Enterprise Program Requirements

(REV. 9-15-03)

**AUTHORITY.** The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for state contracts is established in Public Contract Code (PCC), Section 10115 et seq., Military and Veterans Code, Section 999 et seq. and California Code of Regulations, Title 2 (2CCR), Section 1896.60 et seq.

**The minimum DVBE participation percentage is 3% for this solicitation unless another percentage is specified in the solicitation.**

**INTRODUCTION.** The bidder must document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that fail to fully document one of the DVBE program requirements options shall be considered non-responsive and ineligible for award.

All information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation with this information in accordance with the requirements of the Public Contract Code, Section 10115, et seq. and the Military and Veterans Code, Section 999 et seq. and follow the investigatory procedures required by the California Code of Regulations, Section 1896.80.

Only State of California, Office of Small Business and DVBE Certification certified DVBEs who perform a commercially useful function relevant to this solicitation may be used to satisfy the DVBE program requirements. The criteria for performing a commercially useful function are contained on page 5, Resources & Information and California Code of Regulations, Title 2, Section 1896.61(l). Verify each DVBE subcontractor's/supplier's certification with the Office of Small Business and DVBE Certification Section to ensure DVBE eligibility.

<b>To meet the DVBE program requirements, bidders must complete and fully document at least one of the following compliance options:</b>
<b>Option A - Commitment to full DVBE participation</b> - For a bidder who is a DVBE or who is able to meet the commitment to use identified DVBE(s) to fulfill the full DVBE participation goal.
<b>Option B - Good Faith Effort</b> - For a bidder documenting its completed effort, made prior to the bid due date, to obtain DVBE participation that may result in partial or no DVBE participation.
<b>Option C - Business Utilization Plan</b> - For a bidder using an annual plan (subject to approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and information technology.

**PLEASE READ ALL INSTRUCTIONS CAREFULLY.** These instructions contain information about the DVBE program requirements, bidder responsibilities, and requirements for performing and documenting each of the three available options as detailed below. Bidders are responsible for thorough review and compliance with these instructions. Document your option selection on the attached STD Form 840, Documentation of Disabled Veteran Business Enterprise Program Requirements.

**OPTION A – COMMITMENT** -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 or A2. Bidders must document DVBE participation commitment by completing and submitting the attached STD 840. Failure to complete and submit STD 840 (Side 1) as instructed shall render your bid non-responsive.

The bidder must provide, prior to contract award, a written agreement signed by the bidder and each proposed DVBE subcontractor. The written agreement will include the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, total amount of contract to be paid to the DVBE, and the percentage of the entire contract that will be awarded to the DVBE, with each DVBE subcontractor. If this information is contained in the bidder's DVBE written agreement of intent, the agreement may be attached to the STD 840. If further verification is necessary, the state will obtain additional information to verify the above requirements.

**Method A1. Certified DVBE bidder:**

- a. Commit to performing at least 3% of the contract bid amount (unless otherwise specified) with your firm or in combination with other DVBE(s).
- b. Document DVBE participation on STD 840 (Side 1) and attach a copy of all applicable certifications.
- c. A DVBE bidder working in combination with other DVBEs shall be requested to submit proof of its commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. When requested, the written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the requested written agreement as specified may be grounds for bid rejection.

**Method A2. Non-DVBE bidder:**

- a. Commit to using certified DVBE(s) for at least 3% (unless otherwise specified) of the bid amount.
- b. When a bidder commits to less than the required 3% DVBE participation or its commitment may fall below 3% if specific line items/groups are not selected for award, then Option B, Good Faith Effort must be completed in addition to Option A, Commitment.
- c. Document DVBE participation on STD 840 (Side 1) and attach a copy of the DVBE's certification.
- d. Prior to contract award, a bidder is to submit proof of their commitment by submitting a written agreement with the DVBE(s) identified in its bid's STD 840. The awarding department contracting official named in this solicitation will contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted DVBE information. The written agreement must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written agreement as specified may be grounds for bid rejection.

**OPTION B – GOOD FAITH EFFORT (GFE)** performance and documentation requirements must be completely satisfied prior to bid submission if you are unable to obtain and commit to the full DVBE participation percentage goal (Option A) and do not exercise Option C. Perform and document the following Steps 1 through 5 on both sides of the attached STD 840 form. Failure to perform and document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting both sides of STD 840, shall result in your bid being deemed non-responsive. Step 3, Advertisement, is required unless specifically waived for this solicitation due to time limits imposed by the awarding department.

**Step 1 Awarding Department** - Contact the department's contracting official named in this solicitation to identify interested DVBEs. You must fully document this contact and describe the results on STD 840 (Side 2).

**Step 2 Other State and Federal Agencies, and Local Organizations**

**STATE** Contact the Department of General Services, Procurement Division's (DGS-PD) Office of Small Business and DVBE Certification (OSDC) to obtain a list of certified DVBEs by telephone at (916) 322-5060 for the 24-hour automated telephone system or (916) 375-4940 for the receptionist during normal business hours. This information can also be obtained by searching the online database at <http://www.pd.dgs.ca.gov/smbus>. Begin by selecting Certified Firm Inquiry Services, then search by using either the Keyword Search or the Standard Query options. You must fully document this contact and describe the results on STD 840 (Side 2).

**FEDERAL** Search the U.S. Small Business Administration's (SBA) online database (Pro-Net) at <http://www.pro-net.sba.gov> to identify potential DVBEs. Select these minimum options in the following sequence: select Search Database; select CA under "State"; select Service Disabled Veteran under "Other Ownership Data"; and "Search Using These Criteria" at the page bottom. The database takes a few moments to query, and then your list will appear on your screen. You may select other criteria to focus your search. You must fully document this contact and describe the results on STD 840 (Side 2).

**LOCAL** Contact at least one local DVBE organization to identify DVBEs. For a list of local DVBE organizations, please refer to the DVBE Resource Packet that may be accessed online (<http://www.pd.dgs.ca.gov/smbus> - select "DVBE Resource Packet") or obtain a hardcopy by requesting it from DGS-PD Office of Small Business and DVBE Outreach and Education (see the Resources & Information page). You must fully document your contact with local DVBE organizations and describe the results on STD 840 (Side 2).

**Step 3 Advertisements** are mandatory unless waived by the awarding department.

**CONTENT REQUIREMENTS:** Include all of the following in your advertisement(s): (1) company name; (2) contact name; (3) address; (4) telephone and facsimile (if applicable) numbers; (5) e-mail address (if applicable); (6) the state's solicitation number(s); (7) goods and/or services for which the state is soliciting; (8) the location of the work to be performed; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**HOW MANY & WHERE TO PUBLISH:** Bidders must publish two (2) ads, one (1) each in a trade paper and a DVBE focus paper unless the paper is dual purpose (fulfilling both trade and focus requirements as defined in California Code of Regulations, Title 2, Section 1896.61(k)), in which case one (1) ad is acceptable. Please see the DVBE Resource Packet for a list of acceptable publications.

**WHEN:** Ads must be published after the solicitation's release date and at least 14 days prior to the bid due date, unless a different time period is expressly established in this solicitation.

**DOCUMENT & SUBMIT:** On STD 840 (Side 2), document the publication name(s) in which you published advertisement(s), the contact name and phone number, and date of publication. Include a copy(ies) of the advertisement(s) with your bid.

**Step 4 Invitations to Participate**

**WHO:** Invite (solicit) DVBEs who can provide relevant goods and/or services to this solicitation to subcontract with you. Conducting Steps 1 through 3 produces a list of DVBEs from which you may choose potential DVBEs subcontractors/suppliers to contact. Bidders are advised to contact as many DVBEs (who provide relevant goods and/or services in the applicable location(s)) as possible. Non-California-certified DVBEs are not eligible -- please refer those DVBEs to the OSDC to learn about certification (see the Resources & Information page for contact information).

**FOR WHAT:** Solicit DVBEs for goods and/or services relevant to the state's solicitation. If you are unable to identify specific portion(s) of the proposed contract to subcontract, the state encourages bidders to avoid making a predetermination that no DVBEs are able to perform without first contacting and soliciting participation from them. This allows DVBEs to respond whether they can or cannot provide any goods or services related to the solicitation, and provides a bidder with responses for consideration.

**HOW TO INVITE & CONTENT REQUIREMENTS:** Written invitations are required. At a minimum, invitations must contain all of the following: (1) company name; (2) contact name; (3) address; (4) phone and facsimile (if applicable) numbers; (5) return e-mail address (if applicable); (6) the state's solicitation number; (7) goods and/or services for which the state is soliciting; (8) location of work; and (9) the State's bid(s) due date and/or your due date for receiving DVBE responses.

**WHEN:** Provide DVBE's with a reasonable time period to receive and respond to your invitation, and to be considered by you for participation as described in Step 5, prior to your bid submission.

**DOCUMENT & SUBMIT:** Bidders must document the completed contacts on STD 840 (Side 1), Section A. Attach additional copies of STD 840A as necessary to list your DVBE contacts. You are required to attach a copy of: (1) each invitation or offer sent by letter, fax or e-mail; and (2) confirmation of transmittal or delivery. Your bid shall be considered non-responsive if it fails to include copies of the written invitations and delivery confirmations.

**Step 5 Consider all responding DVBEs** for contract participation. Consideration must be based on business needs for the contract and the same evaluation criteria must be applied to each potential DVBE subcontractor/supplier offering the same goods and services. You must document on STD 840 (Side 1), Section A any firm(s) selected for participation; or if not selected, the reason for non-selection. Attach additional copies of STD 840A as necessary to list all of your DVBE contacts.

**OPTION C – THE DVBE BUSINESS UTILIZATION PLAN** (BUP) option permits bidders to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 3%. **DVBE BUPs apply only to solicitations for goods and information technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 3% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts in the State, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Outreach and Education for assistance. Bidders choosing this option must properly complete and submit STD 840 (Side 1) and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive.

## RESOURCES AND INFORMATION

For assistance in preparing a responsive participation document, **contact the contracting official at the awarding department for this solicitation.** In accordance with Public Contract Code Section 10115.2(b)(3), bidders must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in meeting these contract requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Outreach and Education and request the "DVBE Resource Packet."

### U.S. Small Business Administration (SBA)

*Internet contact only – see instructions for website navigation*

PRONET Database: <http://www.pro-net.sba.gov>

### FOR:

**Service-Disabled Veteran-owned businesses in California**

(Remember to verify each DVBE's California certification.)

**Local Organizations** (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

### FOR:

**List of potential DVBE subcontractors**

### DGS-PD Office of Small Business and DVBE Certification (OSDC)

707 Third Street, Room 400, West Sacramento, CA 95605

Website: <http://www.pd.dgs.ca.gov/smbus>

24-hour automated information

& document requests: (916) 322-5060

Receptionist: (916) 375-4940

Fax: (916) 375-4950

### FOR:

**Directory of Certified DVBEs  
Certification Applications  
Certification Information  
Certification Status, Concerns**

### DGS-PD Office of Small Business and DVBE Outreach and Education

707 Third Street, 2<sup>nd</sup> Floor, West Sacramento, CA 95605

Voice, 8 am—5 pm: (800) 559-5529

Fax: (916) 375-4597

### FOR:

**DVBE Program Participation Requirements  
DVBE Program Info. and Statewide Policy  
DVBE Resource Packet  
DVBE Business Utilization Plan  
Small Business/DVBE Advocates**

### Advertisement Format Example

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBEs are invited to participate as a potential subcontractor/supplier to perform a commercially useful function specific to ***DGS' IFB No. 12345*** for ***fencing materials in Chowchilla.***  
***DVBE responses due to me 1/1/02;***  
***Bids due to the State 1/15/02.***

Contact: ***ABC Company***  
***Jane Doe, General Manager***  
***123 Main Street, Sacramento, CA 95814***  
voice: ***555/555-5555***; fax: ***555/555-5556***  
or e-mail: ***jane.doe@abcco.com***

### Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function. A DVBE contractor, subcontractor or supplier is considered performing a commercially useful function when it meets the following criteria:

(1) The business concern is: responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions, and

(2) The business concern is not further subcontracting a greater portion of the work than would be expected by normal industry practices.

# DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD 840 (REV. 9-15-2003)

**Designation Of Option** Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements.

- ☐ **OPTION A – I commit to meeting the full DVBE contract participation requirement.**  
Complete STD 840, Section A.
- ☐ **OPTION B – I performed and documented a Good Faith Effort (GFE) in an attempt to obtain DVBE participation.**  
Complete STD 840, Section A (for GFE Steps 4 & 5) and STD 840 (REVERSE), Section B (for GFE Steps 1–3).
- ☐ **OPTION C – I submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."**

## A. Full information must be provided.

**For contract participation commitment**, at least one DVBE must be listed. DVBEs must perform a commercially useful function. List the specific goods and/or services with the dollar and/or percentage value(s) that the DVBE(s) commit(s) to provide and the DVBE's tier (prime contractor = 0, subcontractor to prime contractor = 1, subcontractor to Tier 1 subcontractor = 2, etc.). If both the estimated dollar amount and percentage are listed, the higher value supercedes. Attach additional pages to list all other DVBE subcontractors/suppliers (you may use STD 840A). During contract performance, all requests for substituting named DVBEs must be made in accordance with the provisions of California Code of Regulations, Title 2, Section 1896.64(c).

**For Good Faith Effort (GFE)**, use this section to document your first completed contacts with (Step 4), and consideration of (Step 5), relevant DVBEs. Business reasons for non-selection must be documented. Attach additional pages to list all other DVBE contacts (you may use STD 840A). Copies of all written invitations and delivery confirmations must also be attached and submitted with the bid.

BOTH SECTIONS MUST BE COMPLETED FOR GOOD FAITH EFFORT AT LEAST ONE DVBE MUST BE NAMED FOR PARTICIPATION	Date Contacted / /		DVBE Company Name (If you are the Prime and a DVBE enter your name, otherwise enter the solicited subcontractor.)			
	DVBE Contact Name & Reference #		Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code					
	OR	<input type="checkbox"/> <b>Yes, I am, or I will subcontract with, the listed DVBE to provide the following goods and/or services:</b>				
		Specific Goods and/or Services			Estimated \$ and/or % \$ / %	Tier
		<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>				
	Date Contacted / /		DVBE Company Name			
	DVBE Contact Name		Telephone Number ( )	Fax Number ( )	E-mail (if available)	
	Street Address, City, State and Zip Code					
OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>					
	Specific Goods and/or Services			Estimated \$ and/or % \$ / %	Tier	
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>					

**ATTACH ADDITIONAL PAGES (OR USE STD 840A) TO LIST ALL OTHER DVBE CONTACTS**

Go to Side 2, Section B to continue Good Faith Effort documentation ⇨

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

- B. Documentation of Good Faith Effort Steps 1, 2 and 3**—Remember to carefully read all instructions prior to completing this form. Please refer to the Resources & Information page for detailed contact information and a sample advertisement format.

**STEP 1. Contact the Awarding Department** (the contracting official, unless another contact is specified) to identify potential DVBE subcontractors/suppliers, **and document this contact as required.**

Date / /	Contact Name	Telephone Number ( )
Describe Result		

**STEP 2. Contact all of the following and document your contacts as required:** Other state and federal agencies and local organizations to identify potential DVBE subcontractors/suppliers.

**Other State Agency** – Procurement Division, Office of Small Business and DVBE Certification (Certification Office)

PHONE CONTACT <b>OR</b> ONLINE SEARCH	Date / /	Telephone Number <b>(916) 322-5060</b> <b>(916) 375-4940</b>	Contact Name	<input type="checkbox"/> <i>I contacted the Certification Office for a list of California certified DVBEs.</i>
	Date / /	Internet Address <b>http://www.pd.dgs.ca.gov/smbus</b>		<input type="checkbox"/> <i>I searched the Certification Office's online database to identify California certified DVBEs.</i>

Describe Result

**Federal Agency** – U.S. Small Business Administration (SBA) online database

Date / /	Internet Address <b>http://www.pro-net.sba.gov</b>	<input type="checkbox"/> <i>I searched the federal online database for California DVBEs.</i>
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Describe Result

**Local DVBE Organizations** – Contact at least one local DVBE organization—refer to the DVBE Resource Packet for a list of acceptable contacts. (**http://www.pd.dgs.ca.gov/smbus** - select “DVBE Resource Packet” )

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) <b>http://www.</b>
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Describe Result

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address ( ) <b>http://www.</b>
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Describe Result

**STEP 3. Publish advertisements:** Two (2) advertisements: One (1) ad in an accepted trade paper; and one (1) ad in an accepted DVBE focus paper (please see the DVBE Resource Packet for a list of all accepted publications); unless the paper is dual purpose (fulfilling both trade and focus requirements), in which case one (1) ad is acceptable. **Document this step as required and remember to attach a copy of your advertisement(s).**

<b>Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	
<b>Trade Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	

☐ *I certify the ad was placed to reach both trade and focus audiences through this one publication.*

<b>Trade and Focus Paper Name</b> (list full name)		Contact Name	Telephone Number ( )
Address		Date Ad Published / /	



**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003)

***This document may be used as a continuation from Section A, STD 840 (REV. 9-15-2003)***

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

**ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS**

STD 840A (EST. 9-15-2003) (REVERSE)

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name	Telephone Number ( )	Fax Number ( )	E-mail (if available)
Street Address, City, State and Zip Code			

OR	<input type="checkbox"/> <b>Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:</b>		
	Specific Goods and/or Services	Estimated \$ and/or % \$ / %	Tier
	<input type="checkbox"/> <b>No, I am unable to subcontract with the DVBE for the following business reasons:</b>		

# DVBE Program Requirements Supplier Checklist (REV. 9-15-2003)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be evaluated compliant.

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## ☐ **OPTION A: COMMITMENT TO DVBE CONTRACT PARTICIPATION**

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- ☐ STD 840 included with bid
  - ☐ DVBE Written Agreement
  - ☐ Designated the Commitment Option – Checked the first box
  - ☐ Listed at least one California certified DVBE subcontractor
  - ☐ Checked the box(es) for “Yes ...”
  - ☐ Listed specific goods and/or services DVBE(s) agrees to provide
  - ☐ Proposed DVBE contract performance is a “commercially useful function” relevant to the contract
  - ☐ Listed the estimated dollar amount and/or percentage of contract for the DVBE's participation
  - ☐ Proposed DVBE participation meets the 3% requirement (unless a different percentage is specified)
  - ☐ Attached a copy of the DVBE's certification letter from the Department of General Services
- 

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## ☐ **OPTION B: GOOD FAITH EFFORT (GFE)**

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- ☐ STD 840 included with bid
  - ☐ Designated the GFE Option – Checked the second box
  - ☐ (Step 4) Listed all DVBEs contacted and invited to perform on the proposed contract
  - ☐ Confirmed that listed DVBEs are California certified
  - ☐ Attached copies of the invitations sent to the listed DVBEs
  - ☐ Invitations included the required contact information
  - ☐ Attached copies of the delivery confirmations for invitations to DVBEs (e.g. mail receipts, fax confirmations, etc.)
  - ☐ (Step 5) Checked the “No” boxes and listed the business reasons for non-selection of DVBEs contacted
  - ☐ (Step 1) Contacted the Awarding Department and listed contact and results
  - ☐ (Step 2) Contacted Other State agency (Office of Small Business and DVBE Certification) and listed the contact and results
  - ☐ (Step 2) Searched the Federal Pro-net internet database and noted the results
  - ☐ (Step 2) Contacted Local DVBE Organization(s) and listed the contact and results
  - ☐ (Step 3) Advertised – IF NOT WAIVED
    - Listed full information for the advertisement(s) and publication(s)  
[2 ads in one trade and in one DVBE focus publication; **OR** 1 ad in one dual-purpose publication]
  - ☐ Attached a copy of the advertisement(s)
  - ☐ The advertisement(s) were published at least 14 days prior to the bid due date
  - ☐ The advertisement(s) included my required contact information
- 

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## ☐ **OPTION C: BUSINESS UTILIZATION PLAN (BUP)**

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- ☐ **Prior to the bid due date** -- Submitted a BUP to DGS-PD and received approval
  - ☐ STD 840 included with bid
  - ☐ Designated the BUP Option – Checked the third box
  - ☐ Attached a copy of the BUP Approval letter from DGS-PD
-

**CONTRACTOR CERTIFICATION CLAUSES**  
Std CCC (3-04)

**ATTACHMENT 3**

**CCC-304**

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE**: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS**: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made

## CONTRACTOR CERTIFICATION CLAUSES

Std CCC (3-04)

false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. UNION ORGANIZING: Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

5. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

6. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

### 7. SWEATFREE CODE OF CONDUCT:

a. For all contracts, Contractor hereby certifies that it will comply with the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and with all other requirements of Public Contract Code 6108.

b. Contractor hereby certifies that no apparel, garments or corresponding accessories or equipment, material and supplies to be laundered, furnished or produced in whole or in part pursuant to this contract, are the result of sweatshop labor, forced labor or convict labor per Public Contract Code Section 6108.

8. DOMESTIC PARTNERS: Commencing on July 1, 2004 Contractor certifies that it is in compliance with Public Contract Code section 10295.3 with regard to benefits for domestic partners. For any contracts executed or amended, bid packages advertised or made available, or sealed bids received on or after July 1 2004 and prior to January 1, 2007, a contractor may require an employee to pay the costs of providing additional benefits that are offered to comply with PCC 10295.3.

**DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE**: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

**CONTRACTOR CERTIFICATION CLAUSES**  
Std CCC (3-04)

**5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all contractors that are not another state agency or other government entity.

**Attachment 4**  
**RFQ 400-04-401**  
**CUSTOMER REFERENCES**

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION  
CONTRACTS OFFICE

**CUSTOMER REFERENCES**

Provide a minimum of 3 references, use additional pages as needed.

Reference #1

Name of Organization	
Address	
Contact Name	
Contact Title	
Contact Phone Number	
Describe the services and products your firm provided to the organization.	



## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

**STANDARD AGREEMENT**

STD. 213 (NEW 09/01)

AGREEMENT NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

State Energy Resources Conservation and Development Commission (Commission)

CONTRACTOR'S NAME

To be completed by Commission

2. The term of this

Agreement is: To be completed by Energy Commission

3. The maximum amount

of this Agreement is: \$ To be completed by Energy Commission

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work		Pages
Exhibit B – Budget Detail and Payment Provision		Pages
Exhibit C* – General Terms and Conditions	GTC 103 (Number)	1-1-03 (Dated)
Exhibit D – Special Terms and Conditions (Attached hereto as part of this agreement)		Pages
Exhibit E – Additional Provisions		Pages
Exhibit F – Contacts		Page

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
These documents can be viewed at [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts)

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

**CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

To be completed by Commission

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

To be completed by Commission

**STATE OF CALIFORNIA**

AGENCY NAME

State Energy Resources Conservation and Development Commission (Commission)

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Cheryl Raedel, Contracts Office Manager

ADDRESS

1516 Ninth Street, Sacramento, CA 95814

**California Department of General  
Services Use Only**

☐ Exempt per:

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

### EXHIBIT A

#### SCOPE OF WORK

##### **Purpose**

The purpose of this Agreement is to assist the Energy Commission in revising the California Building Energy Efficiency Standards for 2008. Contractor will be provided with defined Key Topic Areas to use for completing the following tasks.

##### Primary Tasks

The major categories of work are divided into the following tasks:

Task #	Task
1	Life Cycle Cost Analysis and Measure Identification and Analysis Plan
2	Life-Cycle Cost Results and Energy Analysis Report – First Set of Proposed Measures
3	Life-Cycle and Energy Analysis Report – Second Set of Proposed Measures
4	Life-Cycle and Energy Analysis Report – Third Set of Proposed Measures
5	Draft Standards, Joint Appendices, Residential and Nonresidential ACM Manuals
6	Impact Analysis Report
7	Participate in Rulemaking Hearing
8	Residential and Nonresidential Compliance Manuals
9	Contingencies and Additional Topic Areas
10	Monthly Progress Reports

This is a “work authorization” Agreement and no work shall be undertaken unless authorized by the Energy Commission through a specific written document called a “work authorization.”

The Contract Manager will prepare and issue the written work authorizations and may set a maximum price, budget, and schedule for the work to be performed. The Contract Manager will work, in consultation with the Contractor, to assign work to either the Contractor or a subcontractor. The Contract Manager will provide Contractor with information on the Key Topic Areas as needed.

##### **Task 1 - Life Cycle Cost Analysis and Measure Identification and Analysis Plan**

##### Life Cycle Cost Methodology Report

The Contractor shall identify (or develop) and implement a methodology for completing life-cycle cost analyses to determine the cost-effectiveness of measures for inclusion in the 2008 Standards. The methodology will build on that done for the 2005 Standards. The methodology will evaluate the cost-effectiveness of measures both incrementally and in combination as specified by the Contract Manager. The methodology will document all economic assumptions, periods of analysis, and energy (i.e., electricity, natural gas, and propane) forecasts that are to be used. The methodology also will identify any sensitivity analyses on these and other parameters (e.g., measure costs and useful lives).

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

The Contractor shall document the proposed life-cycle cost analysis methodology in a draft Life Cycle Cost Analysis Methodology Report. Upon the Contract Manager's review and approval of the draft Life Cycle Cost Analysis Methodology Report, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft Life Cycle Cost Analysis Methodology Report at the workshop and will address issues raised at the workshop in a revised Life Cycle Cost Analysis Methodology Report. Additional workshop(s) to review the revised Life Cycle Cost Analysis Methodology Report will be held if the Contract Manager deems it necessary. The Contractor will address additional measures or issues identified in later workshops or comments if deemed necessary by the Contract Manager.

Once the Contract Manager has approved the Life Cycle Cost Analysis Methodology Report, the Contractor will carry out all of the steps in the approved methodology to complete the life-cycle cost analysis of all measures under consideration for the 2008 Standards.

### Measure Identification and Analysis Plan

Contractor shall identify energy and peak load savings opportunities (measures) for both residential and nonresidential buildings in collaboration with the Contract Manager. The measures to be considered may include, but are not limited to, more energy efficient levels of the measures currently included in the Standards, measures that are options for compliance in the performance standards but are not required, new measures proposed by a stakeholder or the Contractor, and measures that may result from the research or other work on the Key Topic Areas (see the description of Key Topic Areas following these task descriptions).

The Contractor shall:

- fully describe each identified measure,
- identify and document performance criteria such as design criteria or compliance with testing standards necessary for the measure to be effective and reliable,
- identify procedures for verifying the proper installation of the measure,
- review any relevant technical research and literature and existing testing procedures and standards, and
- consult with Standards stakeholders and industry experts knowledgeable about the measure.

For each identified measure, this task will include development and documentation of plans for additional information about the measure required for completion of subsequent tasks. For each identified measure, these plans will identify sources of information relating to

- costs,
- useful lifespan,
- extent of availability,
- potential for expanding availability,
- potential for environmental consequences either positive or negative associated with the use of the measure,
- energy consequences,
- steps that need to be completed by the Contractor to obtain and document that information,
- the non-energy implications of the measure that may enhance or detract from its acceptance, such as health and safety implications, impacts on perceived comfort and productivity, or potential to enhance property valuation, and

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

- issues that require further investigation related to performance criteria, environmental consequences, field verification procedures, or non-energy implications.

Contractor will document plans for each measure in a draft Measure Identification and Analysis Plan. This draft will be submitted to the Contract Manager for approval. Upon the Contract Manager's approval of the draft, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the revised Measure Identification and Analysis Plan at the workshop and address issues raised at the workshop in a revised Measure Identification and Analysis Plan. Additional workshop(s) to review the revised Measure Identification and Analysis Plan will be held if the Contract Manager deems it necessary. The Contractor will address additional measures or issues identified in later workshops or comments if deemed necessary by the Contract Manager.

Deliverables: Draft Life Cycle Cost Methodology Report  
Final Life Cycle Cost Methodology Report  
Draft Measure Identification and Analysis Plan  
Final Measure Identification and Analysis Plan

### **Task 2 - Life Cycle Cost Results and Energy Analysis Report - First Set of Proposed Measures**

The Contractor will prepare a Life-Cycle Cost Results and Energy Analysis Report - First Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the first group of proposed measures for the 2008 Standards. It is expected that most or all of the first group of measures will come from work completed through Codes and Standards Enhancement (CASE) initiatives (see Section N under Key Topic Areas below). The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential Alternative Calculation Methods (ACM) Manuals, and Joint Appendices for each measure.

Upon the Contract Manager's review and approval of the draft report on the first set of proposed measures, or sooner if the Contract Manager deems it appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-Cycle Cost Results and Energy Analysis Report – First Set of Proposed Measures

### **Task 3 - Life Cycle and Energy Analysis Report - Second Set of Proposed Measures**

The Contractor will prepare a Life-cycle Cost Results and Energy Analysis Report – Second Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the second group of proposed measures for the 2008 Standards. The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential ACMs, and Joint Appendices for each measure.

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

Upon the Contract Manager's review and acceptance of the draft report on the second set of proposed measures, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will be required to present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-cycle Cost Results and Energy Analysis Report – Second Set of Proposed Measures

### **Task 4 - Life Cycle and Energy Analysis Report - Third Set of Proposed Measures**

The Contractor will prepare a Life-Cycle Cost Results and Energy Analysis Report – Third Set of Proposed Measures containing a general description of and life-cycle costing and energy analyses building on the Measure Identification and Analysis Plan for the third group of proposed measures for the 2008 Standards. The report will include first draft mark-ups in a format to be identified by the Contract Manager of potential language changes to the Standards, Residential and Nonresidential ACM Manuals, and Joint Appendices for each measure.

Upon the Contract Manager's review and acceptance of the draft report on the third set of proposed measures, or sooner if appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft report at the workshop. If the Contract Manager deems it necessary, Contractor will address issues raised at the workshop in a revised report, address the revised issues in a future workshop, and prepare supplements to the report to address additional measures or issues that become identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Life-Cycle Cost Results and Energy Analysis Report – Third Set of Proposed Measures

### **Task 5 - Draft Standards, Joint Appendices, Residential and Nonresidential ACM Manuals**

At the direction of the Contract Manager, the Contractor will draft specific mark-ups to language (building on the first draft mark-ups proposed in Tasks 2, 3, and 4) for revisions to the Standards, Joint Appendices, Residential and Nonresidential ACM Manuals, consistent with the work in Tasks 1-4. The Contractor will prepare draft documents that contains and show all draft revisions. The Contract Manager will instruct the Contractor as to the format of these documents. Upon the Contract Manager's review and approval of the draft documents, or sooner if the Contract manager deems it appropriate, the Contract Manager and the Contractor shall agree to a date and location for a workshop for public review. The Contractor will present the draft documents at the workshop. Contractor will prepare supplements to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards if the Contract Manager deems it necessary.

Deliverables: Four Draft Documents: 2008 Standards, Joint Appendices, and Residential and Nonresidential ACM Manuals

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

### **Task 6 - Impact Analysis Report**

The Contractor will provide a written draft Impact Analysis Report estimating the statewide energy and cost impacts of the revised 2008 Standards to the Contract Manager. . The Contract Manager will advise the Contractor on the methodology for estimating the statewide energy and cost impacts.

After the Contract Manager has approved the draft Impact Analysis Report, the Contractor will present it at a designated workshop and will address issues raised at the workshop in a revised report if the Contract Manager deems it necessary. At the Contract Manager's direction, Contractor will prepare supplements to the Impact Analysis Report to address additional measures or issues identified in later workshops or hearings on the proposed 2008 Standards.

Deliverables: Draft Impact Analysis Report and supplement(s) if appropriate

### **Task 7 - Participate in Rulemaking Proceeding**

The Contractor will participate in rulemaking hearings to support the draft Standards and related documents developed in Tasks 5 and 6. Contractor participation shall include but may not be limited to presentation of the life cycle reports and other analyses that are the basis of the draft Standards. As directed by the Contract Manager, Contractor will prepare revised or additional documents to address comments and concerns that various stakeholders may file. .

Deliverables: Participation in Rulemaking Hearings  
Other deliverables as directed by the Contract Manager

### **Task 8 - Residential and Nonresidential Compliance Manuals**

The Contractor shall identify any necessary revisions to the Residential and Nonresidential Compliance Manuals and prepare draft Manuals that contain those revisions. With assistance from the Contract Manager, the Contractor will work with the subcontractors on its team for this Agreement, the utilities' CASE initiative consultants, and other entities who worked on updating the Standards and ACM Manuals to also help update the Compliance Manuals.

When the Contract Manager has approved the draft Residential and Nonresidential Compliance Manuals, or sooner if the Contract Manager deems it appropriate, the Contract Manager and the Contractor shall agree to a strategy for accepting public comments on the Compliance Manuals. This may include one or more public workshop(s) as well as public comments received through mail, emails, and phone calls. The Contractor shall work with the Contract Manager to address these public comments in a revised version of the draft Residential and Nonresidential Compliance Manuals.

Deliverables: Draft of Residential Compliance Manual  
Draft of Nonresidential Compliance Manual

### **Task 9 - Contingencies and Additional Topic Areas**

The Contractor shall assist with additional topic areas to cover unexpected research and analytic needs.

Deliverables: Will be defined as needed through Work Authorizations

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### **Task 10 - Monthly Progress Reports**

The Contractor shall prepare and submit a monthly progress report in a format to be identified by the Contract Manager.

Deliverables: Monthly Progress Reports

### **Tentative Deliverables List and Schedule**

Task #	DELIVERABLES	TENTATIVE DUE DATES
1	Life Cycle Cost Methodology Report and Measure Identification and Analysis Plan	August 24, 2005
2	Life-cycle and energy analysis report on first set of proposed measures (CASE and others)	August 24, 2005
3	Life-cycle and energy analysis report - second set of proposed measures	October 13, 2005
4	Life-cycle and energy analysis report - third set of proposed measures	December 16, 2005
5	First Draft Standards, Joint Appendices, Residential ACM and Nonresidential ACM Manuals	March 8, 2006
6	First Draft Impact Analysis Report	May 24, 2006
7	Participation in Rulemaking Hearings	August 1 to December 13, 2006
8	Residential and Nonresidential Compliance Manuals	September 1, 2007
9	Contingencies and Additional Topic Areas	As directed by Contract Manager
10	Monthly Progress Reports	Monthly throughout the contract

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### EXHIBIT B

#### Budget Detail and Payment Provision

The following clauses may or may not be included, Contract Officer (CO) to decide when developing this Exhibit for each agreement.

1. **INVOICING PROCEDURES:** For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

Invoices shall include the Agreement Number and shall be submitted in duplicate not more frequently than monthly in arrears to: *(CO confirm)*

California Energy Commission  
Accounting Office, MS-2  
1516 9<sup>th</sup> Street, First Floor  
Sacramento, California 95814

2. **BUDGET CONTINGENCY CLAUSE:** It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement Amendment to Contractor to reflect the reduced amount.

3. **TRAVEL AND PER DIEM RATES:** Contractor shall be reimbursed for travel and per diem expenses using the same rates provided to nonrepresented state employees. Contractor may obtain current rates from the Commission Contract Officer. Travel expenses in excess of the state rates cannot be reimbursed.

4. **RETENTION:** The State shall retain from each invoice an amount equal to 10% of that invoice. The retained amount shall be held by the Commission and released to Contractor only upon the Commission's approval that the Contractor has satisfactorily completed all of the required services and the Final Report (if required) has been received and accepted.

If a contract consists of the performance of separate and distinct tasks, then any funds withheld for a particular task may be paid upon completion of that task.

Contractor shall invoice the State for retention withheld by the Commission.

*(CO confirm, if no retention is to be held, state so in this clause, also, identify what task(s) retention can be released when the task is complete.)*



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5. **PAYMENT TERMS:** *(CO confirm/advance payment language goes here)*

- ☐ Monthly Flat Rate                      ☐ Quarterly Flat Rate                      ☐ One –Time Payment  
☐ Itemized Monthly or Quarterly Invoice  
☐ Advance Payment Not to Exceed \$ \_\_\_\_\_ or \_\_\_\_\_ % of Contract Amount  
☐ Reimbursement/Revenue  
☐ Other (Explain) (i.e. lump sum/deliverable)

6. **CONDITIONS:**

- A. No payment shall be made in advance of services rendered. *(CO confirm)*
- B. A request for payment must include an invoice with cost backup, such as, travel receipts (where appropriate) receipts for equipment or supplies, copies of subcontractor's invoice, deliverables as required by the Agreement, and written progress reports.
- C. Invoices shall identify charges by tasks, personnel, labor rates and hours, and expenses authorized by either this Agreement or subsequent Work Authorizations. *(CO to tailor to contract)*
- D. Payments shall be made to Contractor for undisputed invoices. An undisputed invoice is an invoice submitted by the Contractor for services rendered and for which additional evidence is not required to determine its validity. Contractor will be notified via a Dispute Notification Form, within 15 working days of receipt of an invoice, if the State disputes the submitted invoice.
- E. Payment will be made in accordance with, and within the time specified, in Government Code Chapter 4.5, commencing with Section 927.
- F. Final invoice must be received by the Commission no later than 60 calendar days after the Agreement termination date.
- G. The State will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Commission pursuant to this Agreement. The State of California is exempt from Federal excise taxes, and no payment will be made for any taxes levied on employee's wages.

7. **BUDGET DETAIL**

*CO use info provided from contract manager*

## **EXHIBIT C**

### **GENERAL TERMS AND CONDITIONS**

PLEASE NOTE: The General Terms and Conditions will be included in the Agreement by reference to internet site: [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts), choose **Standard Language for Use in Standard Agreements** or if this Agreement is with another State agency, choose **Interagency Agreement**. The exact terms to be used will be those appearing on the website the date the Agreement is signed by Contractor.

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

### **EXHIBIT D** **Special Terms and Conditions**

#### 1. **CONTRACT MANAGEMENT:**

- A. Contractor may change Project Manager but the Commission reserves the right to approve any substitution of the Project Manager.
- B. The Commission may change the Contract Manager by notice given Contractor at any time signed by the Contract Officer.
- C. Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.
- D. Contractor will not be permitted to utilize Commission personnel for the performance of services, which are the responsibility of Contractor unless the Commission Contract Manager previously agrees to such utilization in writing, and an appropriate adjustment in price is made. No charge will be made to Contractor for the services of Commission employees while performing, coordinating or monitoring functions.

#### 2. **STANDARD OF PERFORMANCE:** Contractor shall be responsible in the performance of Contractor's/subcontractor's work under this Agreement for exercising the degree of skill and care required by customarily accepted good professional practices and procedures. Any costs for failure to meet these standards, or otherwise defective services, which require reperformance, as directed by Commission Contract Manager or its designee, shall be borne in total by the Contractor/subcontractor and not the Commission. In the event the Contractor/subcontractor fails to perform in accordance with the above standard the following will apply: Nothing contained in this section is intended to limit any of the rights or remedies which the Commission may have under law.

- A. Contractor/subcontractor will reperform, at its own expense, any task, which was not performed to the reasonable satisfaction of the Commission Contract Manager. Any work reperformed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Contractor/subcontractor shall work any overtime required to meet the deadline for the task at no additional cost to the Commission.
- B. The Commission shall provide a new schedule for the reperformance of any task pursuant to this paragraph in the event that reperformance of a task within the original time limitations is not feasible.
- C. If the Commission directs the Contractor not to reperform a task; the Commission Contract Manager and Contractor shall negotiate a reasonable settlement for satisfactory services rendered. No previous payment shall be considered a waiver of the Commission's right to reimbursement.

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3. **SUBCONTRACTS:** Contractor **shall or may** enter into subcontracts with the following firms and/or individuals and shall manage the performance of the subcontractors.

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### OR

No Subcontractors are named for this Agreement. If subcontractors are needed to perform any portion of this Agreement, the following criteria must be met and Contractor shall manage the performance of the subcontractors.

### AND

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.
- B. Contractor shall be responsible for establishing and maintaining contractual agreements with, and the reimbursement of each of, the subcontractors for work performed in accordance with the terms of this Agreement. Contractor shall be responsible for scheduling and assigning subcontractors to specific tasks in the manner described in this Agreement; coordinating subcontractor accessibility to Commission staff, and submitting completed products to the Commission Contract Manager.
- C. All subcontracts shall contain the following: 1) the audit rights and non-discrimination provision stated in the General Terms and Conditions (Exhibit C); 2) further assignments shall not be made to any third or subsequent tier subcontractor without additional written consent of the Commission Contract Manager; and the confidentiality provisions in the Reports paragraph of this Agreement.
- D. Additions, Removal or Substitutions of Subcontractors

The Commission reserves the right to replace a subcontractor, request additional subcontractors, and approve additional subcontractors requested by the Contractor. Such changes shall be subject to the following conditions:

- 1) If the Commission or Contractor requires the replacement or addition of subcontractor(s), the subcontractor(s) shall be selected using 1). A competitive bid process conducted in conformance with the State's and the Commission's procedures for competitive bids. For example, awards shall be made to the lowest

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

bidder meeting the requirements of the bid document and obtaining a minimum of three bids. Contractor's competitive bid process shall be approved by the Commission Contract Manager and Contract Officer prior to release of the bid document. 2). The Commission may direct Contractor to sole source a subcontract with a specific firm, once the Commission Contract Manager has obtained sole source approval via Commission internal procedures. The Commission Contract Manager shall provide justification for the sole source subcontract to the Contracts Officer using the "Subcontractor Add" memo described below.

- 2) The Commission Contract manager shall complete and submit to the Commission Contract Officer a "Subcontractor Add" memo. This memo identifies the new subcontractor and what bidding method was used to obtain subcontractors (competitive or sole source).
- 3) Contractor shall submit any proposed subcontracts not originally identified in Contractor's proposal, or any substitution of subcontracts to the Commission for its approval prior to Contractor entering into it. Upon the termination of any subcontract, the Commission Contract Manager shall be notified immediately.

### 4. **PERFORMANCE EVALUATION:**

Consistent with Public Contract Code Sections 10367 and 10369, the Commission shall, upon completion of this Agreement, prepare a performance evaluation of the Contractor. Upon filing an unsatisfactory evaluation with the Department of General Services, Office of Legal Services (DGS) the Commission shall notify and send a copy of the evaluation to the Contractor within 15 days. The Contractor shall have 30 days to prepare and send statements to the Commission and the DGS defending his or her performance. The Contractor's statement shall be filed with the evaluation in the Commission's Contract file and with DGS for a period of 36 months and shall not be a public record.

### 5. **REPORTS:**

- A. **Progress and Final Reports:** Contractor shall prepare progress reports summarizing all activities conducted by Contractor to date on a schedule as provided in Exhibit A. At the conclusion of this Agreement, Contractor shall prepared a comprehensive Final Report, on a schedule as provided in Exhibit A.
- B. **Title:** Contractor's name shall only appear on the cover and title page of reports as follows:

California Energy Commission  
Project Title  
Contractor Number  
By (Contractor)
- C. **Ownership:** Each report shall become the property of the Commission.
- D. **Non-Disclosure:** Contractor will not disclose data or disseminate the contents of the final or any progress report without written permission of the Commission Contract Manager, except as provided in F, below. Permission to disclose information on one occasion or public hearings held by the Commission relating to the same shall not authorize Contractor to further disclose and disseminate the information on any other occasion. Contractor will

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not comment publicly to the press or any other media regarding its report, or Commission's actions on the same, except to Commission staff, Contractor's own personnel involved in the performance of this Contract, or at public hearing, or in response to questions from a legislative committee. Notwithstanding the foregoing, in the event any public statement is made by the Commission or any other party, based on information received from the Commission as to the role of Contractor or the content of any preliminary or final report, Contractor may, if it believes the statement to be incorrect, state publicly what it believes is correct.

E. ***Confidentiality***

No record which has been designated as confidential, or is the subject of a pending application of confidentiality, shall be disclosed by the Contractor, Contractor's employees or any tier of subcontractors, except as provided in 20 California Code of Regulations, Sections 2506 and 2507, unless disclosure is ordered by a court of competent jurisdiction (20 California Code of Regulations, Sections 2501, et seq.). At the election of the Contract Manager, Contractor, Contractor's employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the Commission Contract Manager or Contract Officer.

Each subcontract shall contain provisions similar to the foregoing related to the confidentiality and nondisclosure of data.

- F. **Disclosure:** Ninety days after any document submitted by the contractor is deemed by the Contract Manager to be a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize a report or written document but shall include the following legend:

“LEGAL NOTICE”

**"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."**

6. **CONTRACT DATA, OWNERSHIP RIGHTS:**

- A. "Data" as used in this Agreement means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research or experimental, developmental or engineering work, or be usable or be used to define a design or process, or to support a premise or conclusion asserted in any deliverable document required by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, data or information, etc. It may be in machine form, such as punched cards, magnetic tape or computer printouts, or may be retained in computer memory.
- B. "Deliverable data" is that data which, under the terms of this Agreement, is required to be delivered to the Commission and shall belong to the Commission.

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

- C. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Contract is commenced. The title to "proprietary data" shall remain with the Contractor throughout the term of this Agreement and thereafter. The extent of the Commission access to, and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Agreement.
- D. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Contract. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Contract at the Commission's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Commission, unless and only to the extent that it is specifically provided otherwise in this Agreement.
- E. As to "generated data" which is reserved to Contractor by the express terms hereof, and as to any pre-existing or "proprietary data" which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced as evidence in a court of law at Contractor's own expense for a period of not less than three years after receipt by the Commission of the Final Report herein.
- F. Before the expiration of the three years, and before changing the form of or destroying any data, Contractor shall notify the Commission of any contemplated action and the Commission may, within thirty (30) days after notification, determine whether it desires the data to be preserved. If the Commission so elects, the expense of further preserving data shall be paid for by the Commission. Contractor agrees that the Commission may at its own expense, have reasonable access to data throughout the time during which data is preserved. Contractor agrees to use its best efforts to furnish competent witnesses or to identify competent witnesses to testify in any court of law regarding data.

### 7. **RIGHTS OF PARTIES IN COPYRIGHTS, PHYSICAL WORKS OF ART AND FINE ART**

The Contractor, by signing this Contract, expressly grants to the Commission for all copyrightable material, work of art and original work of authorship first produced, composed or authored in the performance of this Contract a royalty-free, paid-up, non-exclusive, irrevocable, nontransferable, worldwide license to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art, and to authorize others to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art.

Contractor, by signing this Contract, expressly conveys to the Commission all ownership of the physical works of art and fine art produced under this Contract. Contractor agrees it does not reserve any rights to the physical works of art and fine art produced under this Contract.

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Contractor shall obtain these same rights for the Commission from all subcontractors and others who produce copyrightable material, works of art, or works of fine art under this Contract. Contractor shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors. No subcontract shall be entered into without these rights being assured to the Commission from the subcontractor.

8. **PUBLIC HEARINGS:** If public hearings on the scope of work are held during the period of the Contract, Contractor will make available to testify the personnel assigned to this Agreement. The Commission will reimburse Contractor for compensation and travel of the personnel at the Contract rates for the testimony which the Commission requests.
9. **DISPUTES:** In the event of a Contract dispute or grievance between Contractor and the Commission, both parties shall follow the following two-step procedure. Contractor shall continue with the responsibilities under this contract during any dispute.

### A. Commission Dispute Resolution

The Contractor shall first discuss the problem informally with the Commission Contract Manager. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the Commission Contracts Officer. The grievance must state the issues in the dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Commission Contracts Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Contracts Officer shall respond in writing to the Contractor, indicating a decision and explanation for the decision. Should the Contractor disagree with the Contracts Officer decision, the Contractor may appeal to the second level.

The Contractor must prepare a letter indicating why the Contracts Officer's decision is unacceptable, attaching to it the Contractor's original statement of the dispute with supporting documents, along with a copy of the Contracts Officer's response. This letter shall be sent to the Commission's Executive Director within ten (10) working days from receipt of the Contracts Officer's decision. The Executive Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter. The Executive Director may inform the Commission of the decision at a Commission business meeting. Should the Contractor disagree with the Executive Director's decision, the Contractor may appeal to the Commission at a regularly scheduled business meeting. Contractor will be provided with the current procedures for placing the appeal on a Commission Business Meeting Agenda.

### B. Binding Arbitration

Should the Commission's Dispute Resolution procedure above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the Contractor and Commission mutually may elect to have the dispute or grievance resolved through binding arbitration. If one party does not agree, the matter shall not be submitted to arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator



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shall be selected in accordance with the aforementioned commercial arbitration rules. If arbitration is mutually decided by the parties, arbitration is in lieu of any court action and the decision rendered by the arbitrator shall be final (not appealable to a court through the civil process). However, judgment may be entered upon the arbitrator's decision and is enforceable in accordance with the applicable law in any court having jurisdiction over this Agreement. The demand for arbitration shall be made no later than six (6) months after the date of the contract's termination, despite when the dispute or grievance arose, and despite the applicable statute of limitations for a suit based on the dispute or grievance. If the parties do not mutually agree to arbitration, the parties agree that the sole forum to resolve a dispute is state court.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA's administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

### 10. **TERMINATION:**

The parties agree that because the Commission is a state entity and contracts on behalf of all Californian rate payers, it is necessary for the Commission to be able to terminate, at once, upon the default of Contractors and to proceed with the work required under the Agreement in any manner the Commission deems proper. Contractor specifically acknowledges that the unilateral termination of the Agreement by the Commission under the terms set forth below is an essential term of the Agreement, without which the Commission would not enter into the Agreement. Contractor further agrees that upon any of the events triggering the unilateral termination the Agreement by the Commission, the Commission has the sole right to terminate the Agreement, and it would constitute bad faith of the Contractor to interfere with the immediate termination of the Agreement by the Commission.

This Agreement may be terminated for any reason set forth below.

#### A. With Cause

In the event of any breach by the Contractor of the conditions set forth in this Agreement, the Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Contractor. In such event, Commission shall pay Contractor only the reasonable value of the services theretofore rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of the contract maximum payable. "Cause" includes without limitation:

- 1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or

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- 2) Contractor is not able to pay its debts as they become due and/or Contractor is in default of an obligation that impacts his ability to perform under this Agreement; or
- 3) It is determined after notice and hearing by the Commission or the Executive Director that gratuities were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Commission, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of the Agreement; or
- 4) Significant change in Commission policy such that the work or product being funded would not be supported by the Commission; or
- 5) Reorganization to a business entity unsatisfactory to the Commission; or
- 6) The retention or hiring of subcontractors, or the replacement or addition of personnel that fail to perform to the standards and requirements of this Agreement.

### B. Without Cause

The Commission may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the Contractor. In such event, the Contractor agrees to use all reasonable efforts to mitigate the Contractor's expenses and obligations hereunder. Also, in such event, the Commission shall pay the Contractor for all satisfactory services rendered and expenses incurred within 30 days after notice of termination which could not by reasonable efforts of the Contractor have been avoided, but not in excess of the maximum payable under this Agreement.

11. **WAIVER:** No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by Contractor of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Commission to thereafter enforce each and every such provision.
12. **CAPTIONS:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.
13. **PRIOR DEALINGS, CUSTOM OR TRADE USAGE:** In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of these terms.
14. **NOTICE:** Notice to either party may be given using the following delivery methods, certified mail, Federal Express, United Parcel Service, or personal delivery, providing evidence of receipt, to the respective parties identified on page one of this Agreement. Delivery by fax or e-mail is not considered notice for the purpose of this Agreement.

Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In which case, the effective date shall be postponed 24 hours, or whenever the next business day occurs.

15. **STOP WORK:** The Commission Contract Officer may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the work tasks in this Agreement. Stop

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Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations and the like.

- A. **Compliance:** Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.
- B. **Equitable Adjustment:** An equitable adjustment shall be made by Commission based upon a written request by Contractor for an equitable adjustment. Such adjustment request must be made by Contractor within thirty (30) days from the date of receipt of the stop work notice.
- C. **Revoking a Stop Work Order:** Contractor shall resume the stopped work only upon receipt of written instructions from the Commission Contract Officer canceling the stop work order.

### 16. INTERPRETATION OF TERMS

Any inconsistency between the terms of any exhibits shall be resolved in favor of Exhibit A (Scope of Work) and Exhibit E (Additional Provisions).

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### **EXHIBIT E** **Additional Provisions**

The following clauses may or may not be included in agreement, Contracts Officer to decide when developing this Exhibit if any of the following clauses apply to the specific scope of work or if an additional clause or term is needed.

1. **CONFIDENTIALITY:**

A. Information Considered Confidential

All contractor information considered confidential at the commencement of this Agreement is designated in the attachment to this Exhibit.

B. Confidential Deliverables: Labeling and Submitting Confidential Information

Prior to the commencement of this Agreement, the Parties have identified in the attachment to this exhibit, specific confidential information to be provided as a deliverable. All such confidential deliverables shall be marked, by the Contractor, as "Confidential" on each page of the document containing the confidential information and presented in a sealed package to the Commission Contracts Officer. (Non-confidential deliverables are submitted to the Contract Manager.) All confidential information will be contained in the "confidential" volume, no confidential information will be in the "public" volume.

C. Submittal of Unanticipated Confidential Information as a Deliverable

The Contractor and the Commission agree that during this Agreement, it is possible that the Contractor may develop additional data or information not originally anticipated as a confidential deliverable. In this case, Contractor shall follow the procedures for a request for designation of confidential information specified in 20 CCR 2505. The Commission's Executive Director makes the determination of confidentiality. Such subsequent determinations may be added to the list of confidential deliverables in the attachment to this exhibit.

D. Disclosure of Confidential Information

Disclosure of confidential information by the Commission may be made only pursuant to 20 CCR 2506 and 2507. All confidential data, records or deliverables that are legally disclosed by the Contractor or any other entity become public records and are no longer subject to the above confidentiality designation.

2. **PROPOSAL INTERPRETATION:** This project shall be conducted in accordance with the terms and conditions of Commission Request for Proposal, Invitation for Bid or Request for Qualifications number\_\_\_\_\_, titled\_\_\_\_\_, Contractor's proposal dated \_\_\_\_\_and this Agreement. The Contractor's proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor's proposal, this Agreement shall be considered controlling.

3. **WORK AUTHORIZATION PROCESS:** The Commission Contract Manager shall prepare a Work Authorization.(WA) directing the work the Contractor provides. All WA shall be in writing,

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

numbered sequentially and approved by the Contractor's Project Manager and Commission's Contract Manager before beginning work. The Commission Contract Manager shall file all signed WA with the Commission Contracts Office. Each WA shall detail the following:

1. Detailed scope of work and what task the WA falls within related to this Agreement, objective or goals, the technology area and identification of the Contract/subcontractor team.
  2. All significant materials to be developed or services delivered. Identification of any materials to be furnished by the Commission to the Contractor. The due dates for materials or services performed under the WA. The time period for entire WA. Estimated budget including person hours, hourly rates, travel expenses, and total cost of the WA.
- A. The Commission reserves the right to require the Contractor to stop or suspend work on any WA. The Commission Contract Manager shall provide in writing to the Contractor's Project Manager notice of the date work is halted or suspended. Costs incurred to that date shall be reimbursed in accordance with the termination clause.
- B. The actual costs of a completed WA shall not exceed the authorized amount, except under the following condition:
- If, in the performance of the work, the Contractor determines that the actual costs will exceed the estimated costs, Contractor shall immediately notify the Commission Contract Manager. Upon such notification, the Commission Contract Manager may:
- 1) Alter the scope of the WA to accomplish the work within the estimated costs; or
  - 2) Augment the dollar amount of the WA via an amendment; or
  - 3) Authorize the Contractor to complete the work for the actual costs; or
  - 4) Terminate the WA.
- C. Each WA shall be incorporated into this Agreement. However, it is understood and agreed by both parties that all of the terms and conditions of this Agreement shall remain in force with the inclusion of any such WA. A WA shall in no way constitute an independent contract, other than as provided pursuant to this Agreement, nor in any way amends or supersedes any of the other provisions of this Agreement.

*(CO the following CONTRACTOR VACANCIES clause only-applies to "service" contracts, not consultant or A&E)*

### 4. **CONTRACTOR VACANCIES:**

Contractor shall give priority consideration in filling vacancies in positions funded and during the term of this Agreement, to qualified recipients of aid under Chapter 2, commencing with Section 11200 of the Welfare and Institutions Code, in accordance with Article 3.9, commencing with Section 11349, of the Welfare and Institutions Code.

### 5. **CONFLICT OF INTEREST:**

- A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall report its findings in its progress report.

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

*C.O. Other provisions that apply to specific situations may be inserted here. Below are options for various types of contracts*

*The following applies only to the consulting services and architectural & engineering contracts*

- B. Contractor shall submit a completed Fair Political Practices Commission Form 700, "Statement of Economic Interests" for each consultant as directed by the Commission's Contract Manager in consultation with the Commission's Chief Counsel's Office to file a statement.

*The following applies only to consulting services contracts*

- C. No person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract. This does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services contract which amounts to no more than 10 percent of the total monetary value of the consulting services contract.

*The following applies only to tech support contracts.*

- D. Bidding Activities:

- 1) Contractor and each subcontractor shall agree not to bid as an independent consultant on any of the following:
  - a) An RFP or project on which Contractor or any subcontractor has provided assistance under this Contract.
  - b) Every related RFP or subject that currently receives assistance or receives assistance during this Contract under \_\_\_\_\_ [fill in program] or intends to apply for such assistance under any of the above programs and makes that fact known to Contractor or Contractor team members.

- 2) Reviewing, Evaluation & Assistance Activities

Contractor and each team member shall be disqualified from participating in the review, evaluation, or assistance of:

- a) Any project seeking assistance under the programs listed above for which Contractor has become an independent consultant in a situation not covered by clause D.1; or,
- b) Any project for which, within twelve (12) months prior to the start date of this Contract or at any time during this Contract, it has provided assistance under a separate contract to the project proponent that is seeking assistance for the same project under any of the above programs.

- 3) Subcontractors

Contractor shall require each of its subcontractors at any level who will be involved in the performance of this Contract to agree to the above terms in a form to be

## ATTACHMENT 5, SAMPLE STANDARD AGREEMENT

approved by the Commission Contract Manager, and shall furnish the Commission with evidence thereof. The terms of this paragraph shall remain in effect for the duration of this Contract.

### *The following applies only to siting / expert witness contracts*

- E. To avoid any conflict of interest, the Contractor and its Subcontractors shall not work for any developer who has submitted or is expected to submit any information in preparation for obtaining a power plant license from the Commission for the duration of this Contract. The Commission Contract Manager and Commission Chief Counsel's Office shall determine what constitutes a potential conflict of interest. The Commission reserves the right to redirect work and funding on a project if the Commission determines that there is a potential conflict of interest.

### *The following applies only to siting/expert witness contracts*

- F. During the term of the contract, the Contractor will not be requested or allowed to review an application involving a project on which the Contractor had previously worked. During the term of the contract, the Contractor will also not be requested or allowed to review an application from a developer for whom the Contractor has worked within the twelve months prior to the start of review.

This paragraph is used to determine which projects the Contractor will be assigned to work on. This paragraph ensures that the Contractor will not be allowed to review its own previous work.

### *The following applies only to Information Technology contracts that include a consulting component:*

- G. State Administrative Manual--Information Technology, Section 5202:

- 1) Exclusion for Conflict of Interest:

No consultant shall be paid out of state funds for developing recommendations on the acquisition of Electronic Data Processing (EDP) products or services or assisting in the preparation of a feasibility study, if that consultant is to be a source of such acquisition or would otherwise directly and/or materially benefit from the state adoption of such recommendations or the course of action recommended in the feasibility study. Further, no consultant shall be paid out of state funds for developing recommendations on the disposal of state surplus EDP products if that consultant would directly and/or materially benefit from state adoption of such recommendations.

- 2) Follow- on Contracts

No person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. Therefore, any consultant that contracts with a state agency to develop a feasibility study or provide formal recommendations for the acquisition of EDP products or services is precluded from contracting for any work recommended in the feasibility study or the formal recommendation.

**EXHIBIT F****NAMES AND ADDRESSES OF AGREEMENT REPRESENTATIVES**

<b>Commission Contract Manager:</b>  NAME, MS- California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) Fax: (916) e-mail: @energy.state.ca.us	<b>Contractor Project Manager:</b>  (Name) (Contractor Name) Address  Phone: Fax: e-mail:
<b>Commission Contract Officer:</b>  Peg Pigeon-Bergmann, MS-18 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: (916) 654-7093 Fax: (916) 654-4423 e-mail: ppigeon@energy.state.ca.us  Deliver confidential deliverables to this location only.	<b>Contractor Contract Officer:</b>  (Name) (Contractor Name) Address  Phone: Fax: e-mail:
<b>Invoices, Progress Reports and Non-Confidential Deliverables to:</b>  Accounting Office, MS-2 California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4401 Fax: 916-653-1435 e-mail: awilliams@energy.state.ca.us	
<b>Legal Notices:</b>  Cheryl Raedel, MS-18 Manager, Contracts Office California Energy Commission 1516 Ninth Street Sacramento, CA 95814 Phone: 916-654-4392 Fax: 916-654-4423 e-mail: craedel@energy.state.ca.us	(contractor legal person)



## **Exhibit A - Work Authorization Sample**

### **TECHNICAL ASSISTANCE PROGRAM**

**Work Authorization No.:**

**Project Title:**

**Program Area:**

**Contractor:**

**Subcontractor:**

**Contract Agreement No.:**

**Commission Contract Manager:**

**Commission Project Manager:**

**Term:**

**Amount Not to Exceed:**

## Exhibit A - Work Authorization Sample

### WORK AUTHORIZATION NO. 1

Under the provisions of the contract agreement indicated above, XXXXXXXXXX., hereinafter called Contractor, and XXXXXXXXXX., hereafter called subcontractor, are authorized to proceed with work outlined below.

#### A. BACKGROUND

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#### B. SCOPE OF WORK

#### C. SCHEDULE OF DELIVERABLES

#### D. COMPENSATION SCHEDULE

#### E. BUDGET WORK HOURS BY TASK AND STAFF

Approval:

\_\_\_\_\_  
XXXXXXXXXXXX, Contract Manager  
California Energy Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
XXXXXXXXXXXX, Project Manager  
California Energy Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
XXXXXXXXXXXX, Contract Manager  
Contractor

\_\_\_\_\_  
Date